

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

WASHINGTON ALLIANCE OF )  
TECHNOLOGY WORKERS, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
UNITED STATES DEPARTMENT OF )  
HOMELAND SECURITY, *et al.*, )  
 )  
Defendants. )  
\_\_\_\_\_ )

Civil Action No. 1:16-cv-1170 (RBW)

**BRIEF AMICI CURIAE OF INSTITUTIONS OF HIGHER EDUCATION  
IN SUPPORT OF INTERVENORS**

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## **IDENTIFICATION AND INTEREST OF AMICI**

Optional Practical Training (OPT) is a longstanding government program that permits international students to continue, and deepen, their education by applying the skills and knowledge they learn in the classroom to a professional setting. OPT provides untold benefits for these international students. But, just as critical, being able to provide international students with the opportunities facilitated by OPT gives American institutions of higher education an edge in an increasingly competitive global education market. Without OPT, the education that international students will receive in the United States will be less robust, and the ability of American colleges and universities to attract and educate the best and brightest from around the world will diminish. The consequences of ending OPT for students, schools, and the economy at large will be severe. For these reasons, amici Institutions of Higher Education submit this brief strongly in support of Intervenor.

Amici are 118 diverse public and private colleges and universities from across 29 states and the District of Columbia: Adelphi University, Adler University, Amherst College, Arizona State University, Augustana College, Babson College, Bard College, Bates College, Beloit College, Bennington College, Berklee College of Music, Boston Architectural College, Boston College, Boston University, Bowdoin College, Brandeis University, Brown University, Bryn Mawr College, Bucknell University, California Institute of Technology, Carnegie Mellon University, Case Western Reserve University, Claremont Graduate University, Claremont McKenna College, Clark University, Colby College, Colgate University, College of the Holy Cross, Columbia University, Cornell College, Cornell University, Dartmouth College, Dickinson College, Drexel University, Duke University, Elon University, Emerson College, Emory University, Franklin & Marshall College, George Washington University, Georgetown University, Gettysburg College, Guilford College, Hamilton College, Harvard University, Haverford College, Hofstra University,

Illinois Institute of Technology, Johns Hopkins University, Lafayette College, Lawrence University, Marymount University, Massachusetts Institute of Technology, Middlebury College, Mills College, Mount Holyoke College, New York University, Northeastern University, Northwestern University, Oberlin College, Oglethorpe University, Oregon State University, Pace University, Palo Alto University, Pomona College, Princeton University, Reed College, Rhode Island School of Design, Rhodes College, Rochester Institute of Technology, Rutgers University-Camden, Rutgers University-New Brunswick, Rutgers University-Newark, Sarah Lawrence College, School of the Art Institute of Chicago, School of Visual Arts, Scripps College, Smith College, Southeastern University, Southern New Hampshire University, Stanford University, Suffolk University, Syracuse University, Texas A&M University System, Texas State University System, Texas Tech University System, The College of Wooster, The New School, The University of Texas System, Tufts University, University of Arkansas, University of Dayton, University of Denver, University of Houston System, University of Miami, University of Michigan, University of New Hampshire, University of North Texas System, University of Oregon, University of Pennsylvania, University of Pittsburgh, University of Rochester, University of Southern California, University of the Pacific, University of Utah, University of Washington, Utah State University, Vanderbilt University, Wake Forest University, Washington and Lee University, Washington State University, Washington University in St. Louis, Wellesley College, Western Washington University, Wheaton College, Williams College, Worcester Polytechnic Institute, and Yale University.<sup>1</sup>

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<sup>1</sup> Pursuant to Local Civil Rule 7(o)(5), this brief has not been authored, in whole or in part, by counsel to any party in this case. No party or counsel to any party contributed money intended to fund preparation or submission of this brief. No person, other than the amici, their members, or their counsel, contributed money that was intended to fund preparation or submission of this brief.

## INTRODUCTION

American institutions of higher education offer educational and research opportunities that attract the very best students, researchers, and professors from around the world. These individuals make valuable contributions to our classrooms, campuses, and communities. And these contributions play a critical role in making American higher education—in the words of Education Secretary Betsy DeVos—“the envy of the world.”<sup>2</sup>

The OPT program is one reason why American colleges and universities occupy this exalted position. The program allows amici and others to recruit top international students in an increasingly competitive global education market. When those students attend our institutions, they contribute to a diversity of thought, background, and experience that enriches the academic environment and campus life. OPT allows amici to capture the well-established advantages of diverse student bodies, redounding to the benefit of all students and faculty, domestic and international. Whether OPT participants eventually stay in the United States, return to their home countries, or settle elsewhere, they contribute to the richness of our institutions and will forever carry—and propagate to others—a greater understanding of American culture and values.

OPT participants are also critical to maintaining amici’s research excellence and ability to provide world-class undergraduate instruction, particularly in the important “STEM” fields of science, technology, engineering, and mathematics. International graduate students are integral to many departmental research initiatives that attract outstanding faculty in STEM fields, and by teaching undergraduates they allow amici to maintain large and diverse course offerings. Many undergraduate and graduate students use OPT to continue important research in their field of study

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<sup>2</sup> U.S. Dep’t of Educ., *U.S. Secretary of Education Betsy DeVos Warns of Looming Crisis in Higher Education* (Nov. 27, 2018), <https://www.ed.gov/news/press-releases/us-secretary-education-betsy-devos-warns-looming-crisis-higher-education/>.

after obtaining their degrees. In this way and countless others, OPT participants give back to the campuses and communities that have welcomed them as international students.

Finally, although not the principal focus of this brief, it goes without saying that OPT participants add real value to the U.S. economy. As accomplished and hardworking students and recent graduates, OPT participants are ideally positioned to drive economic growth. And indeed they do. Through their creativity and hard work, these young people have founded successful companies and added numerous jobs to the economy.

If WashTech has its way, OPT will cease to exist. And if it ends, so too will the myriad benefits of OPT to international students, American colleges and universities, and the national economy. If OPT is eliminated, international students will have fewer opportunities to continue their education beyond the walls of the classroom—something that research shows is often required to master complex fields such as those in the STEM area. Likewise, if OPT is ended or reduced, it will be harder for amici to compete for international students, particularly at a time when global competition is fierce and international students are already questioning whether they are welcome in the United States in light of recent changes in immigration policy and enforcement. Amici and their colleague institutions in the United States have worked hard to establish and maintain the nation's reputation as the premier global destination for international study. But international students have choices, and studies show that the availability of programs like OPT weigh heavily in their decision-making. American colleges and universities are at risk of losing ground to competitors like Canada, New Zealand, and Australia if they cannot offer the experiential learning opportunities, career pathways, and economic security that OPT provides.

Without OPT, the national economy will also suffer. Our economy currently enjoys “brain gain”: we are able to retain the international students we educate, and their presence in this country

post-graduation generates economic growth and job creation. Economists have studied the consequences of limiting OPT, and their studies predict serious costs. Gross domestic product and labor market size will fall, due not only to the departure of recent graduates whose intelligence and hard work would otherwise create value for American companies, but also because the new jobs that OPT founders and entrepreneurs would have created will instead move overseas.

This brief describes the scope and importance of OPT to American colleges and universities. It places OPT within its proper historical context as but one example of an experiential learning opportunity that has always been understood as integral to academic study in the United States. It details the benefits OPT brings to its participants, their host institutions, and the economy at large. And, finally, it describes the substantial costs these stakeholders will bear if WashTech prevails in this challenge.

## ARGUMENT

### I. The Reach And Scope Of OPT Is Vast.

Higher education is widely recognized as one of the United States' most "crucial exports."<sup>3</sup> For the past several decades, the United States has been the leading destination for international students.<sup>4</sup> As reported by Immigration and Customs Enforcement, there were 1,019,333 degree-seeking international students in the United States' higher education system as of March 2018,

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<sup>3</sup> Dick Startz, *Sealing the Border Could Block One of America's Crucial Exports: Education*, Brookings Institution (Jan. 31, 2017), <https://www.brookings.edu/blog/brown-center-chalkboard/2017/01/31/sealing-the-border-could-block-one-of-americas-crucial-exports-education/>.

<sup>4</sup> See, e.g., Press Release, Inst. for Int'l Educ., *Number of International Students in the United States Reaches New High of 1.09 Million* (Nov. 13, 2018), <https://www.iie.org/Why-IIE/Announcements/2018/11/2018-11-13-Number-of-International-Students-Reaches-New-High/>.

from 229 countries and every inhabited continent.<sup>5</sup> Many of these international students came to the United States through F-1 visas<sup>6</sup> that allow international students to enter the United States as full-time students at an accredited college, university, or other academic institution.<sup>7</sup> The F-1 student population increased by 104% between 2008 and 2016.<sup>8</sup>

After having studied for at least one academic year, F-1 students are eligible to seek employment opportunities through OPT.<sup>9</sup> OPT allows students to gain up to 12 months of real-world work experience in their field of study, either during their academic coursework (pre-completion OPT) or after receiving their degrees (post-completion OPT).<sup>10</sup> Between 2004 and 2016, nearly 1.5 million international students and graduates participated in OPT.<sup>11</sup> Over half of them pursued employment related to STEM fields.<sup>12</sup> Those individuals were thus eligible for the STEM OPT extension, which was originally introduced in 2008 and currently provides a 24-month

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<sup>5</sup> Student and Exchange Visitor Program, *SEVIS by the Numbers: Biannual Report on International Student Trends* 4, 7 (2018), <https://www.ice.gov/doclib/sevis/pdf/byTheNumbersApr2018.pdf>.

<sup>6</sup> U.S. State Dep't, *Nonimmigrant Visas Issued by Classification (Including Border Crossing Cards), Fiscal Years 2013-2017*, <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2017AnnualReport/FY17AnnualReport-TableXVIB.pdf> (last visited Sept. 29, 2019).

<sup>7</sup> U.S. Citizenship & Immigr. Servs., *Students and Employment*, <https://www.uscis.gov/working-united-states/students-and-exchange-visitors/students-and-employment/> (last updated May 22, 2019).

<sup>8</sup> Neil G. Ruiz & Abby Budiman, *Number of Foreign College Students Staying and Working in U.S. After Graduation Surges*, Pew Research Center (May 10, 2018), <https://www.pewresearch.org/global/2018/05/10/number-of-foreign-college-students-staying-and-working-in-u-s-after-graduation-surges/#fn-40543-1>.

<sup>9</sup> U.S. Citizenship & Immigr. Servs., *Students and Employment*, *supra* note 7.

<sup>10</sup> U.S. Dep't of Homeland Security, *Study in the States: F-1 Optional Practical Training*, <https://studyinthestates.dhs.gov/sevis-help-hub/student-records/fm-student-employment/f-1-optional-practical-training-opt> (last updated Oct. 7, 2019).

<sup>11</sup> Neil G. Ruiz & Abby Budiman, *Number of Foreign College Students Staying and Working in U.S. After Graduation Surges*, *supra* note 8.

<sup>12</sup> *Id.*

extension of post-completion OPT.<sup>13</sup> The number of international students in STEM fields who have participated in OPT increased by 400% between 2008 and 2016.<sup>14</sup>

In 2017, when the federal government last published statistics on program participation, a record number of international students were authorized for OPT. The government granted 276,500 authorizations that year, up from 257,100 the year before.<sup>15</sup> Combined with students who received authorizations in previous calendar years, in 2017, 328,205 students received work authorization as a result of OPT.<sup>16</sup> Of this total, 89,839 individuals were authorized to work through STEM OPT,<sup>17</sup> representing 181 countries from around the globe.<sup>18</sup>

Given these numbers, it should come as no surprise that many American colleges and universities had over a thousand students and graduates participating in OPT in 2017—among them amici Columbia University (5,590), Northeastern University (4,359), Arizona State

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<sup>13</sup> U.S. Dep't of Homeland Security, *Study in the States: F-1 Optional Practical Training*, *supra* note 10.

<sup>14</sup> Neil G. Ruiz & Abby Budiman, *Number of Foreign College Students Staying and Working in U.S. After Graduation Surges*, *supra* note 8.

<sup>15</sup> Neil G. Ruiz & Abby Budiman, *Number of Foreign College Graduates Staying in U.S. to Work Climbed Again in 2017, But Growth Has Slowed*, Pew Research Center (July 25, 2018), <https://www.pewresearch.org/fact-tank/2018/07/25/number-of-foreign-college-graduates-staying-in-u-s-to-work-climbed-again-in-2017-but-growth-has-slowed/>.

<sup>16</sup> U.S. Immigr. & Customs Enforcement, *2017 Total Number of Students with Curricular Practical Training (CPT); Optional Practical Training (OPT); or Science, Technology, Engineering and Mathematics (STEM) OPT Authorization*, [https://www.ice.gov/doclib/sevis/pdf/data-OPT-STEM-OPT-CPT\\_2017.pdf](https://www.ice.gov/doclib/sevis/pdf/data-OPT-STEM-OPT-CPT_2017.pdf) (last visited Sept. 29, 2019).

<sup>17</sup> U.S. Immigr. & Customs Enforcement, *2017 All Countries of Citizenship by Number of Students with Science, Technology, Engineering and Mathematics (STEM) Optional Practical Training (OPT) Authorization*, [https://www.ice.gov/doclib/sevis/pdf/data-CitizenshipSTEMOPT\\_2017.pdf](https://www.ice.gov/doclib/sevis/pdf/data-CitizenshipSTEMOPT_2017.pdf) (last visited Sept. 29, 2019).

<sup>18</sup> *Id.*

University (3,716), Illinois Institute of Technology (2,678), and Duke University (1,425).<sup>19</sup> OPT participants thus constitute a meaningful portion of the student and recent graduate population nationwide.

Moreover, many institutions of higher education employ OPT participants, both for pre- and post-completion work. For example, amicus Arizona State University employed 461 participants in 2017.<sup>20</sup> Amici Massachusetts Institute of Technology and Columbia University both employed over 250 participants that year as well.<sup>21</sup> OPT participants thus not only constitute a substantial number of students and recent graduates at many American colleges and universities, but also form a critical segment of their workforces as instructors, researchers, and more.

## **II. OPT Provides Experiential Learning That Is Now, And Has Long Been, A Crucial Component Of Education In This Country.**

American institutions of higher education have long recognized the importance of experiential learning. In the 1940s, Harvard University convened a Committee on the Objectives of a General Education in a Free Society. The committee's report explained the unification of academic and vocational learning within American education: "[T]he aim of education should be to prepare an individual to become an expert both in some particular vocation or art and in the general art of the free man and the citizen. Thus the two kinds of educations once given separately to different social classes must be given together to all alike."<sup>22</sup> The report also recognized the

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<sup>19</sup> U.S. Immigr. & Customs Enforcement, *2017 Top 100 Schools by Total Number of Students Participating in Optional Practical Training (OPT)*, [https://www.ice.gov/doclib/sevis/pdf/data-Top100OPTSchools\\_2017.pdf](https://www.ice.gov/doclib/sevis/pdf/data-Top100OPTSchools_2017.pdf) (last visited Sept. 29, 2019).

<sup>20</sup> U.S. Immigr. & Customs Enforcement, *2017 Top 200 Employers for Pre- and Post-Completion Optional Practical Training (OPT) Students*, [https://www.ice.gov/doclib/sevis/pdf/data\\_Top200\\_EmployersPrePostCompletion\\_OPT\\_Students2017.pdf](https://www.ice.gov/doclib/sevis/pdf/data_Top200_EmployersPrePostCompletion_OPT_Students2017.pdf) (last visited Sept. 29, 2019).

<sup>21</sup> *Id.*

<sup>22</sup> James Bryan Conant, *General Education in a Free Society: Report of the Harvard Committee* 54 (1955), <https://archive.org/details/generaleducation013127mbp/page/n77>.

needs of students to translate their classroom learning to the workplace: “Beyond the knowledge of future work, the student needs an experience in actual work. Clearly the school itself cannot be expected to provide this experience in any formal way. Yet it is beneficial for all . . . .”<sup>23</sup>

History shows this theory borne out in practice. Higher education has kept pace with changes in the economy. Employers have grown to expect capable graduates with practical skills, and American colleges and universities have responded to these evolving economic demands.<sup>24</sup> Institutions of higher education have broadened the educational experience, preparing students to be educated citizens as well as desirable and effective participants in the American workforce.<sup>25</sup> They have accomplished these twin aims by placing new focus on applied learning and technical expertise, all the while remaining true to the benefits of providing students with liberal arts foundations.<sup>26</sup> These efforts have received strong support from the federal government, which has built bridges between the academy and the workforce “to explore effective ways for higher education to be a more active partner with private and public sector employees in the development of a comprehensive, coordinated system of education that prepares all students for the competitive workplace of the twenty-first century.”<sup>27</sup>

Today, American colleges and universities offer a host of experiential learning

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<sup>23</sup> *Id.* 175, <https://archive.org/details/generaleducation013127mbp/page/n197>.

<sup>24</sup> Clare Kaufman, *The History of Higher Education in the United States*, WorldWideLearn, <https://www.worldwidelearn.com/education-advisor/indepth/history-higher-education.php> (last visited Sept. 29, 2019).

<sup>25</sup> Claudia Goldin & Lawrence F. Katz, *The Shaping of Higher Education: The Formative Years in the United States, 1890 to 1940*, 13 *J. of Econ. Persp.* 37, 38-40 (Winter 1999).

<sup>26</sup> *Id.* at 45-47.

<sup>27</sup> *E.g.*, Polly Hutcheson, *Educating a Globally Productive Citizenry: The Role of Higher Education in the Integration of Learning and Work. A Monograph for College Leaders*, Nat’l Comm’n for Cooperative Educ. 8 (1999), <https://files.eric.ed.gov/fulltext/ED428609.pdf>.

opportunities. The value of these experiential learning opportunities is well-documented.<sup>28</sup> As the Director of Exploration and Experiential Learning at amicus Wellesley College explained:

[E]xperiential learning contextualizes the learning done in the classroom, facilitating students' ability to apply their education to the professional world in meaningful, informed ways and supports their own development as professionals prepared to contribute to the workforce as effective employees and leaders. Most of all, it allows students to draw deep and lasting connections between the content encountered in the classroom - theoretical and practical - and the complexity of the real world.<sup>29</sup>

These “intersections” thereby “ensure the relevance and lasting impact of academic learning.”

OPT facilitates experiential learning for international students who study in this country. It allows these students to complement their classroom instruction with real-world applications that reinforce and deepen their understanding of academic concepts. It is this marriage of theory and practice that sets our graduates apart and equips them to tackle the greatest challenges of our time with creativity and common sense. As recently emphasized by higher education leaders across New Jersey, including amicus Princeton University's President Christopher Eisgruber, OPT “allows students to supplement their education with valuable experiential learning and on-the-job-training as they start their careers.”<sup>30</sup> The Vice Dean for Faculty and Graduate Affairs at amicus Georgetown University put it this way: “Even our best students can only learn so much from the classroom; they must then test and further these lessons in the real world. The opportunity to undertake internships, employment, or research is critical to their development as future leaders in

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<sup>28</sup> E.g., Eleanor Townsley et al., *The Impact of Undergraduate Internships on Post-Graduate Outcomes for the Liberal Arts*, NACE Center (2017), <https://www.nacweb.org/job-market/internships/the-impact-of-undergraduate-internships-on-post-graduate-outcomes-for-the-liberal-arts/>.

<sup>29</sup> Except where otherwise noted, all statements contained in this brief are on file with undersigned counsel.

<sup>30</sup> See *Letter from President Eisgruber and Other Leaders of New Jersey Colleges and Universities to New Jersey Congressional Delegation Regarding Immigration* (May 2, 2019), <https://president.princeton.edu/blogs/letter-president-eisgruber-and-other-leaders-new-jersey-colleges-and-universities-new-jersey>.

a more globalized world community for generations forward.”

Amici’s graduates attest to the important ways OPT advanced their education:

- “Looking back, I can confidently say that the OPT gave me the opportunity to complete my Georgetown education because it allowed me to get a taste of what it meant to work ‘for real’, and in DC. It makes one more understanding of other cultures. I truly hope other students have the same opportunities I did. Based on my own experience, and that of my peers, I know it would be for the best of the US and the students’ home country.” –*Former OPT participant, graduate of amicus Georgetown University*
- “My current work allows me to not only utilize the learnings I received in school, but also challenges me to take into account the practical and business challenges that can only arise in real-life settings. I would not have received this type of learning in classrooms alone. This system has enriched my academic experience by equipping me with knowledge (from my classroom learnings), and skills to apply that knowledge in real life.” –*OPT participant, graduate of amicus Wellesley College*
- “The OPT stint supercharged my learning of theoretical concepts and shed light about what I had learnt in university as it applies to the real business world. It wasn’t until the OPT that the practical implementations of some of the theories, formula and their importance became clear. As a fresh graduate I was able to apply these concepts and even help brush up the knowledge of the more experienced engineers in the company which they certainly appreciated.” –*Former OPT participant, graduate of amicus University of Texas at Dallas*
- “I applied for an OPT as I wanted to gain additional experience working in my discipline. OPT was instrumental for me to continue my research . . . [and] opened doors for me [to] have additional training in mentoring students, writing and preparing manuscripts for publication in peer-reviewed journals, conducting research, and presenting scientific posters in professional meetings, among others, which is vital for my personal and professional growth. . . . I hope that this program will continue to be implemented as it helps international students gain their utmost academic potential.” –*OPT participant, graduate of amicus University of Arkansas*
- “OPT provided me the practical technical skills to write code at scale in industry and understand and implement solutions for the real-world software engineering problems. These skills were learnt in classroom, however, implementing these solutions and writing code in the real world gave me a better practical understanding of what I learnt in my courses, labs and in thesis. For example, we learn in OPT that fixing a bug is not only about changing your code, but also about collaborating across different teams to ensure that the whole product works as expected after the code changes are done.” –*OPT participant, graduate of amicus Arizona State University*

For many OPT participants, the combination of academic and practical learning in this country positions them to succeed upon return to their home countries:

- “OPT is highly important for international students as it provides a unique opportunity to gain technical skills in a variety of fields that the U.S. leads globally. It trains people in top-notch institutions to close the gaps with international standards and good practices when they go back to their countries, and allows them to transfer that knowledge to other individuals in their field of expertise.” –*OPT participant, graduate of amicus Arizona State University*
- “Recently on a recruitment trip to Honduras, a classroom full of prospective students and parents asked specifically about the OPT program. Their stated goal is to earn a degree in the United States, learn how engineering and industrial companies operate, and then take that knowledge to their home country to help build the infrastructure and industry to strengthen the people and the economy. This dream is not unique to Honduras – we also read about it in the application essays from students from Kenya, Paraguay, Nepal, and Jamaica. The future international leaders see education and OPT opportunities in the United States as an important step in their journey of bolstering their home.” –*Undergraduate Admissions Office at amicus Worcester Polytechnic Institute*

### **III. Higher Education Benefits Tremendously From OPT, As Does The U.S. Economy.**

The entire academic community benefits from international students who participate in OPT. These students enhance campus diversity and its well-recognized contributions to the educational experience; sustain American excellence in research and instruction, particularly in critical STEM fields; give back to the campuses and communities that welcome them here; and yield measurable benefits to the economy at large.

#### **A. International Students Contribute To Campus Diversity, A Key Component Of The Educational Experience.**

The Supreme Court has time and again noted the myriad benefits that a diverse student body yields for institutions of higher education. *First*, the Court has recognized “the educational benefits that flow from student body diversity,” *Fisher v. Univ. of Tex. at Austin (Fisher I)*, 570 U.S. 297, 310 (2013) (quoting *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003))—namely, the deeper understanding students and professors achieve when an issue or problem is analyzed by individuals who bring differing perspectives and backgrounds to the question. *Second*, “enrolling a diverse student body ‘promotes cross-racial understanding, helps to break down racial stereotypes, and enables students to better understand persons of different races.’” *Fisher v. Univ.*

*of Tex. at Austin (Fisher II)*, 136 S. Ct. 2198, 2210 (2016) (quoting *Grutter*, 539 U.S. at 328, 330). While this obviously has a direct benefit to students, it also is a key component in creating a dynamic and integrated campus environment. *Third*, and “[e]qually important, student body diversity promotes learning outcomes, and better prepares students for an increasingly diverse workforce and society.” *Id.* at 2210 (internal quotation marks omitted).

The Supreme Court’s observations in this respect apply with equal force to international students and scholars. As then-president of amicus Harvard University wrote in the wake of the Administration’s 2017 travel ban, “[o]ur robust commitment to internationalism is not an incidental or dispensable accessory. It is integral to all that we do, in the laboratory, in the classroom, in the conference hall, in the world.”<sup>31</sup> Other amici agree. For instance, amicus Duke University’s institutional statement of its commitment to diversity and inclusion explains that “collective success depends on the robust exchange of ideas—an exchange that is best when the rich diversity of our perspectives, backgrounds, and experiences flourishes” and when “all members of the community feel secure and welcome.”<sup>32</sup> Likewise, the board of amicus Amherst College states that it will “continue to affirm the importance of inclusiveness among our student body, our faculty, and our staff . . . because the best and brightest people are found in many places, not few; because our classrooms and residence halls are places of dialogue, not monologue; [and] because teaching and learning at their best are conversations with persons other than ourselves about ideas other than our own.”<sup>33</sup> And amicus Rutgers University-Newark includes in its

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<sup>31</sup> Drew Gilpin Faust, *We Are All Harvard*, Harv. Univ. (Jan. 29, 2017), <https://www.harvard.edu/president/news/2017/we-are-all-harvard/>.

<sup>32</sup> Duke Univ., *Diversity and Inclusion*, <https://inclusive.duke.edu/> (last visited Sept. 29, 2019).

<sup>33</sup> Amherst Coll., *Trustee’s Statement on Diversity* (Jan. 20, 2018), <https://www.amherst.edu/amherst-story/diversity/trustee-s-statement-on-diversity/>.

strategic plan the goal that “[d]iversity must be ‘unpacked’ as a nuanced construct of modern life and social experience, and then its multi-faceted impact recognized as an enormous asset to scholarship, pedagogy, civic life, and community well-being.”<sup>34</sup> These are three examples among many.

International students play a significant role in fostering the inclusive and diverse atmosphere amici strive to create on campus. Their incredible diversity of backgrounds and ethnicities “fuels innovation and creativity”<sup>35</sup> and improves the educational experience for every student, foreign and domestic. Not only do “international students put a human face on the world beyond our borders,” but their diversity of background and experience also offers tangible benefits to their peers.<sup>36</sup> Cross-cultural engagement allows students “to shed stereotypes, explore new perspectives, and gain intercultural skills” in real, quantifiable ways.<sup>37</sup> This commonsense observation finds support in the academic literature: a 2013 study found that “substantial international interaction was positively correlated with U.S. students’ perceived skill development in a wide range of areas,” including language skills, acquisition of new knowledge, formulation of creative ideas, synthesis of information, and the use of technology.<sup>38</sup>

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<sup>34</sup> Rutgers Univ., *Rutgers University-Newark: Where Opportunity Meets Excellence* 32 (2014), [http://www.newark.rutgers.edu/sites/default/files/run\\_strategic\\_plan\\_-final.pdf](http://www.newark.rutgers.edu/sites/default/files/run_strategic_plan_-final.pdf).

<sup>35</sup> NAFSA, *Restoring U.S. Competitiveness for International Students and Scholars* 3 (2006), [https://www.nafsa.org/sites/default/files/ektron/uploadedFiles/NAFSA\\_Home/Resource\\_Library\\_Assets/Public\\_Policy/restoring\\_u.s.pdf](https://www.nafsa.org/sites/default/files/ektron/uploadedFiles/NAFSA_Home/Resource_Library_Assets/Public_Policy/restoring_u.s.pdf).

<sup>36</sup> Marjorie Zatz, *International Students Creating an American Legacy*, *Diverse Issues Higher Educ.* (Oct. 23, 2018), <https://diverseeducation.com/article/130127/>.

<sup>37</sup> Kavita Pandit, *International Students and Diversity: Challenges and Opportunities for Campus Internationalization*, in *International Students and Scholars in the United States* 131, 131 (Heike C. Alberts et al. eds., 2013).

<sup>38</sup> Jiali Luo & David Jamieson-Drake, *Examining the Educational Benefits of Interacting with International Students*, 3 *J. Int’l Students* 85, 91, 96 (2013), <https://files.eric.ed.gov/fulltext/EJ1056457.pdf>.

OPT facilitates exactly these cross-cultural interactions by attracting the best and the brightest international students to the United States and extending their stays in the country. For the more than 90% of American students who do not themselves study abroad, “having international classmates, lab partners, or roommates may be their only opportunity to connect with other cultures.”<sup>39</sup> As an administrator from amicus Brandeis University explained, “Our international students form a vital and highly valued segment of our student community, bringing diverse perspectives and linguistic and cultural backgrounds that enrich and enhance our student population, courses, and curriculum – and hence our degree program as a whole.” Importantly, too, those international classmates often return to their home countries after OPT, having established enduring relationships with their peers, and with a greater understanding of American culture and values.

**B. International Students And Scholars Are Critical To America’s Research Excellence And Undergraduate Instruction, Especially In STEM Fields.**

International students and scholars have helped America’s colleges and universities become world leaders in essential fields of research that drive innovation and growth. Indeed, according to the National Foundation for American Policy, thirty-three of the eighty-five Americans who have received Nobel Prizes in chemistry, medicine, and physics since 2000—nearly 40%—have been immigrants to this country.<sup>40</sup>

International student attendance also allows American colleges and universities to expand

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<sup>39</sup> Rebecca Prinster, *International Students Provide Colleges a Mutually Beneficial Relationship*, Insight (June 28, 2016), <http://www.insightintodiversity.com/international-students-provide-colleges-a-mutually-beneficial-relationship/>.

<sup>40</sup> Stuart Anderson, *Immigrants Keep Winning Nobel Prizes*, Forbes (Oct. 8, 2017), <https://www.forbes.com/sites/stuartanderson/2017/10/08/immigrants-keep-winning-nobel-prizes/>.

their academic offerings, broadening the educational opportunities available to everyone.<sup>41</sup> This dynamic is particularly evident in the STEM fields, where graduate-level enrollment by domestic students is especially low.<sup>42</sup> Nine in ten undergraduate computer science students are Americans,<sup>43</sup> for example, but computer science graduate programs have not enrolled a majority of their students domestically since 1995.<sup>44</sup> Given these postgraduate enrollment numbers, at some schools “there are not enough domestic students alone in certain fields” to support a full range of advanced research and professorships.<sup>45</sup> In this context, teaching positions at the graduate-student and junior-instructor levels are frequently filled by international students.<sup>46</sup>

In such situations, international graduate students are an important component of a program’s or department’s research efforts, and they contribute significantly to the education of undergraduate students. And, this “high level of international students allows U.S. universities to attract and retain faculty,” particularly in STEM fields.<sup>47</sup> Much of the research in these fields is directed by professors but conducted by graduate students, and if U.S. colleges and universities cannot get the best graduate students, they will not attract the best faculty. Institutions and their students will suffer as a result. “Science is international, and scientific talent is today a global

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<sup>41</sup> See Stephanie Saul, *As Flow of Foreign Students Wanes, U.S. Universities Feel the Sting*, N.Y. Times (Jan. 2, 2018), <https://www.nytimes.com/2018/01/02/us/international-enrollment-drop.html>.

<sup>42</sup> Nick Wingfield, *The Disappearing American Grad Student*, N.Y. Times (Nov. 3, 2017), <https://www.nytimes.com/2017/11/03/education/edlife/american-graduate-student-stem.html>.

<sup>43</sup> *Id.*

<sup>44</sup> Nat’l Found. for Am. Policy, *The Importance of International Students to American Science and Engineering* 4 tbl.2 (2017), <https://nfap.com/wp-content/uploads/2017/10/The-Importance-of-International-Students.NFAP-Policy-Brief.October-20171.pdf>.

<sup>45</sup> *Id.* at 2.

<sup>46</sup> See Wingfield, *The Disappearing American Grad Student*, *supra* note 42.

<sup>47</sup> Nat’l Found. for Am. Policy, *The Importance of International Students to American Science and Engineering*, *supra* note 44, at 2.

resource.”<sup>48</sup> Thus in order for a university to pursue “any competitiveness strategy[, it] must include measures to attract and retain foreign talent in science and engineering.”<sup>49</sup> Just as international students’ “enrollment in under-enrolled science courses often makes the difference for a school’s ability to offer those courses,”<sup>50</sup> “in many cases, it is foreign scientists who teach the courses that we want American students to take.”<sup>51</sup> As a STEM faculty member at amicus Brandeis University summarized, “This is BEYOND critical for us.”

### **C. OPT Participants Give Back To Their Campuses And Communities.**

Amici have realized remarkable benefits from international students who participate in OPT. These smart, driven, entrepreneurial members of our communities contribute meaningfully to our campuses, classrooms, and communities. Amicus Guilford College provides one illustrative example. President Jane Fernandes identified multiple recent graduates who enriched campus life immeasurably before, during, and after their participation in OPT. She described one such graduate as “a strategic, game-changing individual who served our academic community well.” That graduate has pursued a passion in computer technology “to break down the barriers preventing women from becoming part of a male-dominated, globally critical field.” Another graduate has used STEM OPT to remain “an instrumental member of our academic community,” working in a biology lab on campus. Another graduate found his “calling to become a history teacher” while at Guilford, and OPT “led to his first teaching job in Guilford County,” where he

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<sup>48</sup> NAFSA, *An International Education Policy for U.S. Leadership, Competitiveness, and Security* 3 (2006), <https://www.nafsa.org/sites/default/files/media/document/NIEP2006.pdf>.

<sup>49</sup> *Id.*

<sup>50</sup> NAFSA, *In America’s Interest: Welcoming International Students: Report of the Strategic Task Force on International Student Access* 6 (2003), <https://www.nafsa.org/policy-and-advocacy/policy-resources/americas-interest-welcoming-international-students>.

<sup>51</sup> NAFSA, *An International Education Policy for U.S. Leadership, Competitiveness, and Security*, *supra* note 48.

is now a beloved and award-winning educator.

Guilford is one example of many. Amicus Massachusetts Institute of Technology shared multiple examples of graduates who used OPT to continue and advance cutting-edge and award-winning scientific research at MIT. A recent graduate from amicus The University of Pennsylvania’s Wharton School used OPT to work part-time at Wharton “in the fast growing and worthwhile field of impact investing.” This part-time work led to a full-time role at Wharton. This individual now manages the Wharton Impact Venture Associates program, guiding a team in its work to build a best-in-class impact investing vehicle. Similarly, a graduate from amicus Duke University used OPT to work at the Duke School of Nursing as a data technician for a project that examined mental health issues in China—and used her Chinese language and econometrics skills. Following this experience, she was admitted to a Ph.D. program at amicus Brandeis University’s Heller School for Social Policy and Management. Upon graduation, she received the Barbara Wakefield Award, presented to a student who has contributed significantly to community-building within Heller and beyond. Brandeis highlighted her “track record as an advocate for international students on campus” and her relentless advocacy in the public sphere when bestowing this award. These examples underscore the myriad ways OPT participants give back, as campus leaders, researchers, and public servants, to the same communities that welcomed them as students.

**D. International Students Add Tremendous Value To The U.S. Economy.**

Higher education is not the only sector that benefits from international students. NAFSA: Association of International Educators estimates that international students contributed \$39 billion

to the U.S. economy during the 2017-2018 academic year.<sup>52</sup> That same study found that the economic activity generated by international students supported more than 455,000 American jobs across a number of economic sectors, including accommodation, dining, retail, communication, transportation, and health insurance.<sup>53</sup> According to another study, the work of foreign graduate students demonstrably increases patent applications and grants.<sup>54</sup> International students also continue to contribute to the U.S. economy beyond their periods of enrollment. For example, in a study of American startup companies valued at \$1 billion or more, nearly one-quarter of such businesses had a founder who first came to the United States as an international student.<sup>55</sup> Those founders generated, on average, more than 1,200 jobs per company.<sup>56</sup>

“The economic benefits from immigration are enhanced when looking specifically at OPT,” since the program is available to those “perfectly positioned to contribute to economic growth.”<sup>57</sup> One notable example is Michelle Zatlyn, co-founder of Cloudflare, a web performance and security company. Cloudflare had over a thousand employees and a multi-billion dollar

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<sup>52</sup> NAFSA, *NAFSA International Student Economic Value Tool*, [http://www.nafsa.org/Policy\\_and\\_Advocacy/Policy\\_Resources/Policy\\_Trends\\_and\\_Data/NAFSA\\_International\\_Student\\_Economic\\_Value\\_Tool/](http://www.nafsa.org/Policy_and_Advocacy/Policy_Resources/Policy_Trends_and_Data/NAFSA_International_Student_Economic_Value_Tool/) (last visited Sept. 29, 2019).

<sup>53</sup> *Id.*

<sup>54</sup> See generally Gnanaraj Chellaraj et al., *The Contributions of International Graduate Students to US Innovation*, 16 Rev. Int’l Econ. 444, 454 (2008).

<sup>55</sup> Stuart Anderson, Nat’l Found. for Am. Policy, *Immigrants and Billion-Dollar Companies 2* (2018), <https://nfap.com/wp-content/uploads/2018/10/2018-BILLION-DOLLAR-STARTUPS.NFAP-Policy-Brief.2018.pdf>.

<sup>56</sup> *Id.*

<sup>57</sup> Business Roundtable, *The Economic Impact of Curbing the Optional Practical Training Program* 4 (Dec. 2018), [https://s3.amazonaws.com/brt.org/BRT-OPTProgramReport\\_1.pdf](https://s3.amazonaws.com/brt.org/BRT-OPTProgramReport_1.pdf) (hereinafter “Business Roundtable Report”).

valuation at the time of its initial public offering last month.<sup>58</sup> Zatlyn has credited OPT for the company's existence and success. After attending college in Canada, she enrolled at Harvard Business School, where she met the individuals with whom she would later found the company. They worked on the concept during business school. After Zatlyn graduated, she obtained work authorization through OPT. "The best thing the U.S. government has done on immigration is OPT to allow international students a chance to stay and work for a time after graduation," Zatlyn said.<sup>59</sup> In Zatlyn's case, it gave her the opportunity to refine "the business plan that helped create the company."<sup>60</sup>

Zatlyn is not alone. For example, Ashifi Gogo used OPT after he graduated from amicus Dartmouth College's Thayer School of Engineering to found and grow his company, Sproxil, which uses authentication technology to combat counterfeit pharmaceuticals in Africa. Gogo explained: "Since graduating, Sproxil has grown into a multi-million dollar enterprise, secured American venture backing, created dozens of jobs for Americans and helped protect over 20 million people worldwide from suspicious and counterfeit medicines and consumer products." Former President Bill Clinton has called Gogo's company "a remarkable achievement," and the Obama Administration recognized Gogo as an "Immigrant Innovator" and "Champion for Change."<sup>61</sup> Gogo views OPT as "invaluable to kickstarting [his] entrepreneurial career."

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<sup>58</sup> Connie Loizos, *Cloudflare Co-founder Michelle Zatlyn on the Company's IPO Today, Its Unique Dual Class Structure, and What's Next*, Tech Crunch, <https://techcrunch.com/2019/09/13/cloudflare-cofounder-michelle-zatlyn-on-the-companys-successful-ipo-and-whats-next/>.

<sup>59</sup> Stuart Anderson, Nat'l Found. for Am. Policy, *Immigrants and Billion-Dollar Companies 18* (2018), <https://nfap.com/wp-content/uploads/2018/10/2018-BILLION-DOLLAR-STARTUPS.NFAP-Policy-Brief.2018.pdf>.

<sup>60</sup> *Id.*

<sup>61</sup> *40 Under 40: Ashifi Gogo*, Fortune (Sept. 24, 2015), <https://engineering.dartmouth.edu/news/40-under-40-ashifi-gogo>.

#### **IV. Any Reduction Of OPT Would Harm Higher Education And The Economy.**

A victory for WashTech in this lawsuit would greatly impair amici's competitive position in the global market for higher education, because OPT enables U.S colleges and universities to attract the world's best and brightest students. Eliminating or reducing OPT would have consequences not just for international students and the institutions that host them. The U.S. economy would forfeit positive externalities associated with bringing international students here, chief among them technology and innovation, two major drivers of economic success.

##### **A. Any Reduction Of OPT Would Compromise American Higher Education Institutions' Ability To Compete For International Students.**

Any rollback in OPT would harm the competitive position of the United States in the international market for higher education. The preeminence of American colleges and universities is due in no small part to their determination to attract the brightest and most committed students and scholars, wherever they may be found. "[O]penness to people and ideas from around the world is a longstanding strength of the American environment for innovation," and this very openness helped make the United States the global leader in higher education.<sup>62</sup> In the 2019 London *Times* ranking of international universities, seventeen of the top twenty-five (and twenty-four of the top fifty) schools were American.<sup>63</sup> Though many countries have world-class flagship institutions, the United States "still dominate[s]" any list of academic powerhouses,<sup>64</sup> and with more than 4,300

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<sup>62</sup> Nat'l Acad. of Scis. et al., *Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future* 467 (2007).

<sup>63</sup> *World University Rankings 2019*, Times Higher Educ. World U. Rankings, [https://www.timeshighereducation.com/world-university-rankings/2019/world-ranking#!/page/0/length/25/locations/US/sort\\_by/rank/sort\\_order/asc/cols/stats/](https://www.timeshighereducation.com/world-university-rankings/2019/world-ranking#!/page/0/length/25/locations/US/sort_by/rank/sort_order/asc/cols/stats/) (last visited Sept. 29, 2019).

<sup>64</sup> Susan Adams, *An Expert List of the World's Best Universities*, Forbes (Sept. 26, 2018), <https://www.forbes.com/sites/susanadams/2018/09/26/an-expert-list-of-the-worlds-best-universities/>.

degree-granting post-secondary institutions, students coming to this country have options unmatched by any other destination.<sup>65</sup>

But American institutions of higher education face ever fiercer competition.<sup>66</sup> Foreign students “have choices,” and “in this very sophisticated, very competitive market for the first time, we have real competition.”<sup>67</sup> Today international students continue to make this country the global leader in higher education, but the gap is closing. The United States’ “market share has dropped from 23% in 2000 to 16% in 2012,” with China, Canada, Britain, and Russia all vying for the same pool of talent.<sup>68</sup> Even more worrying, “[f]or the first time in decades, foreign student numbers in the country are not only *not growing* substantially, they have actually *declined*.”<sup>69</sup> The extraordinary environment that has long drawn students from around the world is “now at risk,”<sup>70</sup> along with tuition revenue on which many universities and colleges have come to depend.<sup>71</sup>

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<sup>65</sup> See *Digest of Education Statistics*, Nat’l Cent. Educ. Stat., tbl. 317.20, [https://nces.ed.gov/programs/digest/d17/tables/dt17\\_317.20.asp](https://nces.ed.gov/programs/digest/d17/tables/dt17_317.20.asp) (last visited Sept. 29, 2019).

<sup>66</sup> See, e.g., British Council, *The Shape of Global Higher Education: International Comparisons with Europe* 14 (2019), [https://www.britishcouncil.org/sites/default/files/k006\\_02\\_the\\_shape\\_of\\_global\\_higher\\_education\\_in\\_europe\\_final\\_v5\\_web.pdf](https://www.britishcouncil.org/sites/default/files/k006_02_the_shape_of_global_higher_education_in_europe_final_v5_web.pdf) (“[T]he global education context is a hugely competitive market.”).

<sup>67</sup> Nick Anderson & Susan Svrluga, *What’s the Trump Effect on International Enrollment? Report Finds New Foreign Students Are Dwindling*, Wash. Post, Nov. 13, 2018, <https://wapo.st/2FIU2Yd?/> (quoting Allan E. Goodman, Pres. & CEO, Inst. of Int’l Educ.).

<sup>68</sup> Jason Lane, *US Losing Its Dominance in Global Higher Education Market*, Conversation (Oct. 14, 2015), <http://theconversation.com/us-losing-its-dominance-in-global-higher-education-market-46721/>.

<sup>69</sup> *US Student Visa Data the Latest Indicator of International Enrolment Trends*, ICEF Monitor (May 23, 2018), <http://monitor.icef.com/2018/05/us-student-visa-data-the-latest-indicator-of-international-enrolment-trends/> (emphasis original).

<sup>70</sup> NAFSA, *An International Education Policy for U.S. Leadership, Competitiveness, and Security*, *supra* note 48.

<sup>71</sup> Elizabeth Redden, *For International Students, Shifting Choices of Where to Study*, Inside Higher Ed. (Aug. 24, 2018), <https://www.insidehighered.com/news/2018/08/24/international-enrollments-slowng-or-declining-some-top-destination-countries-look>.

The availability of OPT is essential to amici’s competitiveness on the global stage. Studies show that among students considering a degree abroad, 39% responded that it was very important to them to have access to the same internship opportunities as local students, and 62% reported that being able to work in-country after completing a degree was critical.<sup>72</sup> When it comes to attracting international masters students, OPT is paramount. For that demographic, “career prospects are the most important factor . . . when considering where to apply and enroll.”<sup>73</sup> OPT improves career prospects by providing opportunities for experiential learning with employers in the students’ field of study. As the Vice President for Global Engagement at amicus Georgetown University explained: “In an increasingly competitive global higher education landscape, OPT is a signature strength of the United States. The opportunity to combine formal education with work experience is a magnet for talented students from abroad.”

The reality of life on amici’s campuses is proof positive of OPT’s importance:

- “The chance to put my degree to use in my field would give me a much more valuable experience and played a big role in deciding to pursue higher education in the United States.” –*OPT participant, graduate of amicus Arizona State University*
- “OPT has played a tremendous role in my decision to apply and ultimately attend a US-based university (Duke University) for my MBA. I had the option of choosing between the US and Europe (Spain, UK, France) for my Master’s degree. While all of the programs that I was considering [were] all top tier academically, I decided to only apply in the US in great part because of the opportunity of having practical training in the US after graduation. OPT has allowed me to bridge the academics into practice and enhance my learning experience. While learning from a top program gave me a great skillset, OPT has been a honing tool to help me sharpen my abilities by landing academic theory with real-life experiences. This is important to me because adding practical training in the top corporate market will bolster my career, and make me a more competitive candidate.” –*OPT*

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<sup>72</sup> Carmen Neghina, *International Students’ Changing Perceptions of the U.S.*, Study Portals, <https://www.studyportals.com/blog/one-year-later-international-students-changing-perceptions-of-the-u-s/> (last visited Sept. 29, 2019).

<sup>73</sup> Zhengrong Lu & Paul Schulmann, *How Masters’ Students Choose Institutions: Research on International Student Segmentation*, WES Research & Advisory Services, v (Oct. 2015), <https://wenr.wes.org/2015/10/how-masters-students-choose-institutions-research-on-international-student-segmentation>.

*participant, graduate of amicus Duke University's Fuqua School of Business*

- “[M]y participation in OPT has not only provided a well-rounded American educational and work experience but has also become critical to further immersion into the American culture. My daily interactions have created a strong connection with the American people, the way of life, admiration and identification with the American values. . . . OPT was pivotal to my decision to pursue my education in the United States. I believed that the optional practical training provided a holistic educational experience as has been proven in my current OPT experience. The addition of Optional Practical Training to the American educational experience bridges the gap between theoretical and practical education hence, a wholesome academic exposure.” –*OPT participant, graduate of amicus University of Arkansas*
- “I chose to pursue an undergraduate degree at Oberlin, Ohio, because of its proximity to Cleveland and The Cleveland Orchestra, where I am completing my OPT. . . . OPT at the Cleveland Orchestra at Cleveland’s cultural hub gives me a concrete direction to steward my home country’s performing arts scene when I return. Therefore, hands-on OPT experience in the US workforce, albeit brief, is paramount to my decision to pursue a degree in the US - to find a vision for the future of a growing arts industry in my home country. There would be little reason to travel this far otherwise.” –*OPT participant, graduate of amicus Oberlin College*
- “International students will not be interested in pursuing an education in the U.S. where importance would be given only to classroom learning and not the practical on-job skills, whereas other countries provide both classroom and practical skills for less cost than the U.S. universities. I hope this does not happen!” –*OPT participant, graduate of amicus Arizona State University*
- “There is no doubt that we would lose a high proportion of our international students if the program were to end, and any who did decide to come would be at a significant disadvantage compared to our US students, without the ability to continue their training in the same ways after graduation.” –*Administrator at amicus Brandeis University*

Another graduate from amicus University of Arkansas who used OPT framed the issue in stark terms: “I am certain that the US would not be the top destination for potential international students if OPT would be eliminated.” Without the program, he explained, “international students may choose comparable countries such as Australia, Canada, England, or Germany.”

Research supports this commonsense intuition: “tightening regulations for post-study work offers or cutting these down have had a negative impact on international student numbers in the

years immediately following the change.”<sup>74</sup> For example, when the United Kingdom closed its route to post-study work for international students, over a third of students who considered but ultimately declined to pursue their education in the United Kingdom pointed to poor post-study work opportunities as the principal reason.<sup>75</sup> This country has seen a similar effect from recent policy changes impacting international students. In a 2017 survey of 2,104 international students in 150 different countries who had recently made inquiries at one or more American colleges or universities, nearly one-third stated that the “current political climate” had decreased their interest in studying in the United States.<sup>76</sup> Of the students who expressed decreased interest, more than half (55.7%) identified “visa restrictions for international students” as the reason.<sup>77</sup>

Of course, with any rollback of OPT, international students themselves would also suffer. Those who continue to come here for study will find their degree programs less rich and less valuable without the experiential components that are paramount for a complete and balanced education.<sup>78</sup> They would miss out on curricular offerings and internships that match students with public and private sector employers to complement and hone classroom learning. And they would face greater uncertainty about the value proposition of an American degree, particularly when their opportunities to defray the substantial cost of education through subsequent employment in this country could be severely diminished.

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<sup>74</sup> Paulina Trevena, *Post Study Work Visa Options: An International Comparative Review* 14 (Aug. 2019), <https://dera.ioe.ac.uk/33953/1/post-study-work-visa-options-international-comparative-review.pdf>.

<sup>75</sup> *Id.*

<sup>76</sup> Pamela Kiecker Royall, EAB, *Effect of the Current Political Environment on International Student Enrollment: Insights for U.S. Colleges and Universities* 6 (2017), [https://web.archive.org/web/20181019112222/https://eab.com/-/media/EAB/Technology/Royall-and-Company/Undergrad-Enrollment/Effect-of-the-Current-Political-Environment-on-International-Student-Enrollment\\_v3](https://web.archive.org/web/20181019112222/https://eab.com/-/media/EAB/Technology/Royall-and-Company/Undergrad-Enrollment/Effect-of-the-Current-Political-Environment-on-International-Student-Enrollment_v3) (last visited Nov. 18, 2019).

<sup>77</sup> *Id.* at 9.

<sup>78</sup> *See supra* at Part II.

**B. Lost Talent From Any OPT Reduction Would Also Harm The Economy.**

Given all that institutions of higher education invest to attract, educate, and develop international students from around the world, it makes little sense to prohibit willing international students from contributing to the United States economy. But this is precisely what WashTech’s requested relief would do. International students would lack a clear path to apply their skills in the U.S. after graduation. They would immediately depart for their home countries or for other nations glad to host the superb talent that our education system produces. In other words, other nations would capture the return on America’s investment. As one OPT participant from amicus Rhodes College recognized, OPT “helps the US economy to retain talents from around the world.”

Economists have studied the consequences of limiting OPT and predict dire results. The Business Roundtable recently modeled the effect of a 60% decline in OPT participation by 2020.<sup>79</sup> The model showed detrimental effects on gross domestic product and labor market. “Real U.S. GDP would decline by about a quarter of a percentage point by 2028,” and the “labor market would lose 443,000 jobs — including 255,000 jobs held by native-born workers.”<sup>80</sup> Unsurprisingly, the industry that would suffer most is education, to the tune of 131,000 jobs lost by 2028.<sup>81</sup> The Business Roundtable’s model “reinforces the findings of myriad studies that show that foreign-born workers actually create jobs for native-born workers on aggregate, rather than displace them.”<sup>82</sup> By the same token, policies that make it harder for international students to work here

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<sup>79</sup> Business Roundtable, *The Economic Impact of Curbing the Optional Practical Training Program*, <https://www.businessroundtable.org/policy-perspectives/immigration/economic-impact-curbing-optional-practical-training-program> (last visited Sept. 29, 2019).

<sup>80</sup> *Id.*

<sup>81</sup> Business Roundtable Report at 9.

<sup>82</sup> *Id.* at 1; see also Jeremy L. Neufeld, *Optional Practical Training (OPT) and International Students After Graduation: Human Capital, Innovation, and the Labor Market*, Niskanen Center (Mar. 2019), [https://www.niskanencenter.org/wp-content/uploads/old\\_uploads/2019/03/OPT.pdf](https://www.niskanencenter.org/wp-content/uploads/old_uploads/2019/03/OPT.pdf);

also reduce innovation, the hallmark of a healthy economy.<sup>83</sup>

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The American higher education system is the world's leading destination for international students. These students benefit immeasurably from an American education and then use what they have learned for the good of the country and the world. The OPT program has been integral in attracting this extraordinary international talent and then allowing the United States to reap the benefits of this highly motivated, creative, and industrious group of young people. OPT is critical to amici and thousands of other institutions of higher learning throughout the country, just as it is critical to millions of international students and the national economy. WashTech's challenge to OPT puts all these benefits, built up over decades, in jeopardy.

### CONCLUSION

Amici respectfully urge the Court to deny Plaintiff's Motion for Summary Judgment and uphold this vital program.

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New American Economy Research Fund, *The Cost of Removing Optional Practical Training for STEM Graduates* (Oct. 21, 2019), <https://research.newamericaneconomy.org/report/the-cost-of-removing-stem-opt/>.

<sup>83</sup> Business Roundtable Report at 2-4.

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