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Nov. 9, 2026

The Honorable Markwayne Mullin
Secretary of Homeland Security
U.S. Department of Homeland Security
500 12th Street SW
Washington, DC 20536
Via www.regulations.gov

Re: Optional Practical Training Fees, Notice of Proposed Rulemaking, 91 Fed. Reg. 64,566 (Oct. 8, 2026); RIN 1653-AB01; DHS Docket No. ICEB-2026-0100

Dear Secretary Mullin:

The Consumer Technology Association (CTA)® appreciates the opportunity to comment on the Department of Homeland Security's (DHS or the Department) proposed rule requiring schools certified under the Student and Exchange Visitor Program (SEVP) to pay a $70,000 fee before recommending an F-1 student for an initial period of Optional Practical Training (OPT), and a $30,000 fee for each subsequent OPT recommendation, including the STEM OPT extension (the Proposed Rule).[1] We respectfully ask the Department to withdraw the Proposed Rule, for reasons we outline below. If withdrawal is not possible, our comments offer alternative approaches to the rule that would be more effective in meeting the Department's objectives.

The proposed fees would have devastating consequences for American innovation. A $70,000 charge to hire a recent graduate, rising to $100,000 for graduates who pursue STEM OPT, would put some of the world's best engineering and scientific talent beyond the reach of American startups and small businesses. It would make it harder for U.S. companies to compete, encourage employers to move jobs and research overseas, and undermine the Administration's goal of American leadership in artificial intelligence and other critical technologies. None of this would make the OPT program more secure.

I. Introduction and Summary

As North America's largest technology trade association, CTA is the tech sector. Our members are the world's leading innovators — from startups to global brands — helping support more than 18 million American jobs. CTA owns and produces CES® — the most powerful tech event in the world. CTA members design, build and bring to market the technologies that drive the U.S. economy and underpin national security, including artificial intelligence, semiconductors, wireless and connectivity, advanced manufacturing, digital health and automotive technology. Members of every size recruit from American colleges and universities. For many of those graduates, especially in STEM fields, OPT and the STEM OPT extension are the first step into the U.S. workforce.

On Aug. 31, 2026, before the Department published the Proposed Rule, CTA joined 16 other associations representing high-skilled and STEM employers in a letter to Secretary Mullin about the Department's planned OPT

[1]Optional Practical Training Fees, 91 Fed. Reg. 64,566 (proposed Oct. 8, 2026) (to be codified at 8 C.F.R. pt. 214) [hereinafter Proposed Rule].

rulemaking.[2] We said then that we share the Department's interest in an effective program and support measures targeting genuine fraud and legitimate national security risks. We also urged the Department "to avoid measures that would sharply increase the cost of using the program or that would broadly curtail eligibility or duration."[3] The Proposed Rule does what we cautioned against.

CTA's comments focus on a better path to the Department's goals. In summary:

1. **Targeted integrity measures would address fraud more effectively than a flat fee.** The Department considered stronger employer requirements, site visits and reporting, and set them aside because a fee is faster to implement. CTA urges the Department to adopt those targeted measures in place of the proposed fees, and offers to help design them. CTA also supports targeted vetting to address legitimate national security risks, which a fee does not address (Section II).
2. **OPT is a source of talent that U.S. employers cannot replace.** OPT graduates strengthen American technology leadership, American workers and national security (Section III).
3. **The proposed fees would put recent graduates out of reach for American startups and small businesses.** Nearly 80% of CTA's members are startups and small businesses. The fees would hit them hardest, shift heavy costs to all employers and push early-stage hiring overseas (Section IV).
4. **The fees would undermine America's ability to compete for global talent.** They would discourage top students from applying to U.S. schools at all, at a time when competitor countries offer post-study work for a small fraction of the cost, and they would favor students who can afford to pay over those with the most talent (Section V).
5. **A flat fee is a blunt and poorly targeted anti-fraud tool,** and the Department could not use the revenue to fund enforcement (Section VI).
6. **The economic analysis understates the costs,** estimates no benefits and does not weigh reliance interests or alternatives (Section VII). The Department's reliance on the H-1B context to justify the $70,000 figure is questionable given that standard H-1B petition fees amount to only a few thousand dollars.[4] The only recent precedent for a comparable six-figure charge is the Administration's separate $100,000 H-1B payment, which has itself faced legal challenges over whether it constitutes an unauthorized tax.[5]
7. **If the Department proceeds with any fee,** it should adopt the changes in Section VIII, including protections for current participants and waivers for critical-technology fields and federally funded research.

II. CTA Shares the Department's Integrity Goals, and Targeted Measures Are the Better Path

CTA agrees that the Department must protect the OPT program from abuse. Shell companies, "pay-to-stay" arrangements and phantom employers harm students, schools and the many U.S. employers that use OPT lawfully, and they undermine public confidence in a program that serves the country well. As the coalition letter stated, we "support measures that target genuine fraud, address legitimate national security risks, and strengthen the

[2]Letter from U.S. Chamber of Com., Info. Tech. Indus. Council, Consumer Tech. Ass'n et al. to Hon. Markwayne Mullin, Sec'y, U.S. Dep't of Homeland Sec. (Aug. 31, 2026) [hereinafter Coalition Letter].

[3]*Id.* at 2.

[4]*See* Proposed Rule, 91 Fed. Reg. at 64,575 (selecting "a fee amount for OPT comparable to the fee for H-1B visas"); U.S. Citizenship & Immigr. Servs., Form G-1055, Fee Schedule 36–37 (ed. Oct. 26, 2026) (listing a $780 base filing fee for H-1B petitions, plus a $500 fraud prevention and detection fee, a $750 or $1,500 ACWIA fee, an Asylum Program Fee and, for certain employers, an additional $4,000 fee).

[5]*See California v. Mullin*, 833 F. Supp. 3d 50, 60–84 (D. Mass. 2026), *stay pending appeal denied*, 183 F.4th 42 (1st Cir. 2026).

Department's capacity to oversee the program." Those measures, however, should "target bad actors without disrupting the many students, universities, and employers who participate in the program lawfully and in good faith."[6]

The Proposed Rule itself identifies better tools. The Department considered "expanded site visits, increased reporting requirements, additional processes, and stricter procedural mandates." It chose a fee instead because the Department could implement a fee "quickly and uniformly across all participants" with "minimal administrative burdens on the government."[7] Speed of implementation does not justify rejecting alternatives that address the same problem directly, at far lower cost to the students, schools and employers who follow the rules. CTA recommends that the Department adopt the following measures, alone or in combination, in place of the proposed fees:

1. **Extend STEM OPT employer requirements on a risk basis.** STEM OPT already requires E-Verify enrollment, a formal training plan (Form I-983) and employer attestations, and it allows DHS site visits. Applying some or all of these to post-completion OPT, starting with higher-risk employers, would address the abuses the Department describes.
2. **Verify OPT employers.** Require OPT employers to provide verifiable identifiers, such as an EIN, a physical worksite and evidence of active operations. The Department's own investigation found "multiple employers claiming the same address as the location of their business."[8] Simple cross-checks of employer details would flag those patterns before a student begins work.
3. **Use risk-based site visits and data analysis.** Use SEVIS data to prioritize review of newly formed entities, employers with unusually high numbers of OPT workers relative to their staff, and patterns that suggest "pay-to-stay" schemes.
4. **Strengthen reporting and enforce unemployment limits.** Improve validation of employment reporting so that SEVP catches phantom positions and enforces existing unemployment limits.
5. **Hold schools accountable.** Use the Department's existing authority, up to and including withdrawal of SEVP certification, against schools that knowingly enable fraud.
6. **Fund oversight directly.** If SEVP needs more resources, work with Congress on authority for modest, cost-based fees that fund SEVP oversight, rather than general-revenue charges.

CTA also recognizes that national security concerns may be part of the motivation for the Proposed Rule, and those concerns are legitimate. The Department cites a case involving an OPT participant convicted of acting as an agent of the People's Republic of China, and it suggests that the fees could help expose attempts by foreign adversaries to subsidize OPT participation.[9] But a fee is not designed to address national security risks. It screens for ability to pay, not for risk. A student sponsored by a well-funded foreign government, including an adversary government, could absorb a $70,000 charge more easily than a talented, self-funded student from an allied country. The Department has more effective tools, and CTA would support using them:

Enhanced vetting in sensitive fields. Apply heightened, individualized screening to OPT applicants who are nationals of foreign adversary countries, as the Department of Commerce defines them, and who seek training in critical and emerging technology fields. CTA has supported similar targeted, risk-based approaches to foreign adversaries and countries of concern in reviews of information and communications technology and services transactions and in outbound investment screening.[10]

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[6]Coalition Letter, *supra* note 2, at 2.

[7]Proposed Rule, 91 Fed. Reg. at 64,576.

[8]*Id.* at 64,571.

[9]Proposed Rule, 91 Fed. Reg. at 64,571, 64,575.

[10]*See* 15 C.F.R. § 791.4 (2025) (determination of foreign adversaries); *see also* 15 C.F.R. pt. 791 (2025) (securing the information and communications technology and services supply chain); 31 C.F.R. pt. 850 (2025) (U.S. investments in certain national security technologies and products in countries of concern); Comment of Consumer Tech. Ass'n on Provisions Pertaining to U.S.

Exclusion of individuals who pose a risk. Deny OPT to individuals the government determines pose a risk to national security, including those affiliated with foreign military or intelligence organizations, consistent with existing restrictions on certain students and researchers tied to the People's Republic of China's military-civil fusion strategy.[11]

Coordination with export controls. Use existing deemed-export rules, which already require a license before an employer releases controlled technology to certain foreign persons, to focus scrutiny on training placements that involve sensitive technology.[12]

These measures address real risks directly. They do so without discouraging the many students from allied and partner countries whom American companies most want to hire.

The Department states that without the proposed fees it "may shut down the program entirely."[13] That presents a false choice between a $70,000 fee and ending OPT. Targeted integrity measures are the reasonable course between those two options. CTA and its members are ready to help the Department design and implement them.

III. OPT and STEM OPT Strengthen American Technology Leadership, American Workers and National Security

OPT is the main route by which international graduates of U.S. institutions begin their careers in the United States. The Department reports that by 2024, 165,524 F-1 students were participating in STEM OPT and 194,554 in pre- and post-completion OPT. The Department itself notes that the STEM OPT population alone "is nearly double the number of H-1B visas allowed each fiscal year."[14] The annual H-1B cap is 85,000.[15] If OPT stops working, the H-1B program cannot absorb this talent.

For CTA members, there is no substitute for this talent. In fields such as semiconductor design, advanced packaging, AI and quantum systems, the specialized graduate-level skills our members need come largely from graduates of U.S. universities, many of whom are international students. Our members invest heavily in growing the domestic STEM pipeline, but that investment takes years to produce results, and it does not replace the talent OPT retains today.

The talent OPT retains is critical to the sectors CTA members lead. Workers who are both foreign-born and U.S.-trained, the population OPT most directly serves, make up 19% of the high-skill STEM workforce and 35% at the doctoral level. Foreign students patent at higher rates than other immigrants and other workers, and foreign-born graduates are disproportionately the founders of new firms. Of the companies on Forbes's 2019 "AI 50" list, 66% had at least one immigrant founder, and an estimated 72% of those founders first came to the United States on a student visa.[16]

Investments in Certain National Security Technologies and Products in Countries of Concern, Docket No. TREAS-DO-2023-0009, at 2 (Sept. 28, 2023) (supporting provisions "as narrowly tailored as possible to meet U.S. national security objectives"); Comment of Consumer Tech. Ass'n on Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles, 89 Fed. Reg. 79,088, Docket No. 240919-0245, at 2 (Oct. 28, 2024) ("CTA agrees that no government role is more important than national security.").

[11] *See* Proclamation No. 10,043, 85 Fed. Reg. 34,353 (June 4, 2020).

[12] *See* 15 C.F.R. § 734.13(b) (2025) (deemed exports).

[13] Proposed Rule, 91 Fed. Reg. at 64,572, 64,574.

[14] *Id.* at 64,573.

[15] *See* 8 U.S.C. § 1184(g)(1)(A)(vii), (g)(5)(C) (65,000 annual numerical limit, plus 20,000 additional petitions for holders of U.S. advanced degrees).

[16] Coalition Letter, *supra* note 2, at 1 & n.2.

The evidence does not support the Proposed Rule's premise that OPT displaces American workers. A May 2026 study in *AEA Papers & Proceedings* found that STEM OPT expansions increased STEM degree completions by 14-15% and that completions by domestic students rose as well,[17] and a 2026 CEPR synthetic difference-in-differences analysis found the STEM OPT extension stimulated firm creation and raised demand for native high-skilled workers in exposed labor markets.[18] Research for the National Foundation for American Policy (NFAP) finds that when U.S. institutions award more bachelor's degrees to international students, they also tend to award more STEM bachelor's degrees to U.S. students.[19] Other NFAP research finds "no evidence that foreign students participating in the OPT program reduce job opportunities for U.S. workers," and Niskanen Center research associates STEM OPT growth with "increases in average wages for all U.S. STEM employees, not decreases."[20] Labor market conditions point the same way: unemployment in professional and related occupations was 2.6% in September 2026, down from 2.8% a year earlier and well below the 4.0% rate for all workers.[21]

The United States is competing with China and other countries for leadership in artificial intelligence, semiconductors, quantum computing and advanced manufacturing. American universities attract some of the world's most talented scientists and engineers, and OPT helps ensure that their knowledge and skills benefit American companies and American workers. Imposing fees that make it prohibitively expensive to retain these graduates would hand an advantage to our foreign competitors, including China. We would be educating some of the world's brightest minds in American universities and then creating a financial incentive for them to take their talents elsewhere.

Retaining this talent is also a national security priority, and leaders of both parties share that conclusion. The House Republican China Task Force, the National Security Commission on Artificial Intelligence and the House Select Committee on the Chinese Communist Party have each concluded that the United States must attract and retain top global talent to compete with China. The Administration's own 2026 National Security Science and Technology Strategy identifies "attracting and retaining top-tier global talent in critical national security science and technology fields" as a priority.[22] The Proposed Rule would work against that goal at the point where retention is most effective: when graduates of American universities decide where to begin their careers.

Finally, OPT rests on settled legal ground. The D.C. Circuit upheld the OPT and STEM OPT rules in 2022, and the Supreme Court declined review.[23] Students, schools and employers have organized decades of planning around the program.

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[17]Catalina Amuedo-Dorantes & Kevin Shih, *OPT Reforms and the Relative Supply of STEM Skills*, 116 AEA Papers & Proc. 351 (2026).

[18]Seoyoung Kwon, Jongkwan Lee & Joan Monràs, *The Effect of Retaining High-Skilled International Graduates: Evidence from the STEM OPT Extension* (Univ. Pompeu Fabra, Econ. Working Paper No. 1940, Feb. 2026); *see also* Ctr. for Econ. Pol'y Rsch., Discussion Paper No. 21224 (2026).

[19]Madeline Zavodny, Nat'l Found. for Am. Pol'y, *The Impact on U.S. Men and Women in STEM Fields of Increases in International Students* 1 (Apr. 2021) (finding that each additional 10 bachelor's degrees awarded to international students is associated with 15 additional STEM bachelor's degrees awarded to U.S. students).

[20]Madeline Zavodny, Nat'l Found. for Am. Pol'y, *International Students, STEM OPT and the U.S. STEM Workforce* 1 (Mar. 2019); Cecilia Esterline, *New Research: Foreign Students in STEM Don't Hurt American Workers*, Niskanen Ctr. (Aug. 28, 2023), https://www.niskanencenter.org/new-research-foreign-students-in-stem-dont-hurt-american-workers/.

[21]U.S. Bureau of Lab. Stat., USDL-26-1549, The Employment Situation — September 2026, tbl. A-13 (Oct. 2, 2026) (not seasonally adjusted).

[22]Coalition Letter, *supra* note 2, at 2 & nn.3–4.

[23]*Wash. All. of Tech. Workers v. U.S. Dep't of Homeland Sec.*, 50 F.4th 164 (D.C. Cir. 2022), *cert. denied*, No. 22-1071 (U.S. Oct. 2, 2023).

IV. The Proposed Fees Would Effectively Close OPT to Most Students and Shift Heavy Costs to Employers

A. The fees would hit startups and small businesses hardest

Nearly 80% of CTA's members are startups and small businesses. These companies are developing the next generation of American technologies, but they do not have the financial resources of their largest competitors. A $70,000 fee for a single engineering graduate could represent months of operating capital for a young company. For some startups, it could mean the difference between hiring the engineer who makes a new product possible and abandoning the project altogether. The Proposed Rule would give the largest companies a significant competitive advantage while making it harder for the next generation of American innovators to get started.

The fees would also push early-stage technical hiring overseas, to the benefit of competitors abroad. A rule that makes it harder for new American companies to hire the engineers they need to compete with established firms works against competition, innovation and economic dynamism, whatever one's views on immigration policy. The coalition letter emphasized that OPT is "the bridge between the American university system and the American labor market, including for small businesses and startups."[24]

B. The fees are prohibitive

Today, a school's OPT recommendation carries no fee, and the student pays USCIS $470 to $520 for the employment authorization document.[25] Under the Proposed Rule, a graduate who uses post-completion OPT would carry a $70,000 charge. A graduate who adds the STEM extension would carry $100,000, and one who also uses pre-completion OPT would carry $130,000. For a one-year master's program, the fee could approach or exceed the cost of the degree. The Department itself describes the fees as "on par with the educational costs that foreign students incur for one or two years of education."[26]

The Department acknowledges that schools "can elect not to pay the fee."[27] In its low scenario, the Department assumes schools would stop recommending non-STEM students for OPT altogether, which would cut annual OPT participation to 88,374, less than half of the 194,554 participants in 2024.[28] Independent research estimates that a charge of this size would cut new OPT participation by about four-fifths when universities or employers bear the cost.[29] The program would remain on the books but would no longer serve its purpose.

C. Employers will bear much of the cost

The Proposed Rule expressly contemplates that schools "may pass the financial obligation of this proposed fee onto F-1 nonimmigrant students, all students, or employers."[30] CTA members expect the cost to reach them through reimbursement requests during offer negotiations and through university career offices billing employers. Each time an OPT employee becomes eligible for the STEM extension, the employer will face a $30,000 decision.

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[24]Coalition Letter, *supra* note 2, at 1.

[25]U.S. Citizenship & Immigr. Servs., *supra* note 4, at 52 (Form I-765, general filing: $520 paper, $470 online).

[26]Proposed Rule, 91 Fed. Reg. at 64,575.

[27]*Id.* at 64,578.

[28]*Id.* at 64,582–83.

[29]Michael A. Clemens, *Taxes on International Students: Demand and Supply Response for Post-Graduation Foreign Workers on Optional Practical Training* (IZA Inst. of Lab. Econ., Discussion Paper No. 18933, Sept. 2026) (estimating that a $100,000 charge would cause new OPT starts to "fall by four fifths under university or employer incidence in the central scenarios").

[30]Proposed Rule, 91 Fed. Reg. at 64,575.

The Proposed Rule suggests employers "can minimize this impact by recruiting U.S. citizens or candidates with other lawful work authorization to fill the vacancies."[31] That misreads why employers recruit these graduates. In fields such as AI, semiconductor design and advanced engineering, demand for specialized skills exceeds domestic supply, even as our members invest heavily in the domestic STEM pipeline.

D. The fee adds to a growing set of costs on early-career hiring

The Proposed Rule does not stand alone. It comes on top of a new wage-weighted H-1B selection process, a $100,000 H-1B payment requirement that a federal court has set aside,[32] a proposed $103,265 fee on H-1B cap petitions and a proposed rule raising prevailing wages for H-1B and PERM.[33] Together, government charges to move one early-career graduate from OPT through STEM OPT to H-1B status could exceed $200,000: the $70,000 initial OPT fee, the $30,000 STEM OPT fee and the proposed $103,265 H-1B fee. The Department's analysis considers the OPT fee in isolation and does not account for the combined effect on the same employers and workers. These cumulative charges also fall on institutions: schools unable to absorb a $70,000-$100,000 per-student charge would see international enrollment and tuition revenue fall, and some may need to raise tuition or cut programs to offset the loss, with knock-on effects for U.S. research capacity and the regional economies that depend on these institutions.[34]

E. Current employees would face the highest fee

Under the Proposed Rule, the $30,000 subsequent fee applies only to a student who "has previously participated in OPT and has previously paid the initial OPT fee of $70,000."[35] A student already working on post-completion OPT before the effective date has not paid the initial fee. When that student seeks a STEM extension, the school would therefore owe the full $70,000 rather than $30,000. Employers that hired these graduates and planned around their STEM eligibility would face an unexpected $70,000 charge to keep them. Section VIII proposes a fix.

V. The Proposed Fees Would Undermine America's Ability to Compete for Global Talent

America's technological leadership rests in large part on its ability to attract the world's best and brightest students and keep them here after they graduate. OPT is a central part of that offer. The Proposed Rule would narrow the intake valve on which American competitiveness depends.

A. The fees would discourage top students from applying to U.S. schools

Students choose where to study years before they graduate, and the chance to gain work experience after graduation weighs heavily in that choice. Keystone Education Group data show that 86% of prospective international students are considering staying in the United States to work after graduation. The same research shows that OPT

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[31] *Id.* at 64,578.

[32] *Mullin*, *supra* note 5.

[33] *See* Weighted Selection Process for Registrants and Petitioners Seeking To File Cap-Subject H-1B Petitions, 90 Fed. Reg. 60,864 (Dec. 29, 2025) (final rule); Proclamation No. 11,069, 91 Fed. Reg. 60,497 (Sept. 23, 2026) (extending Proclamation No. 10,973); Fee for Certain H-1B Petitions, 91 Fed. Reg. 54,817 (proposed Aug. 25, 2026); Improving Wage Protections for the Temporary and Permanent Employment of Certain Foreign Nationals in the United States, 91 Fed. Reg. 15,454 (proposed Mar. 27, 2026).

[34] *See* Press Release, NAFSA: Ass'n of Int'l Educators, International Students Contributed $43 Billion to the U.S. Economy in 2024-2025; Fall 2025 Spending Down by $1.1 Billion (Nov. 17, 2025) (reporting $42.9 billion in economic activity and more than 355,000 jobs supported by international students in 2024-25); NAFSA: Ass'n of Int'l Educators & JB Int'l, Fall 2026 International Student Enrollment Outlook & Economic Impact (2026) (projecting up to 111,000 fewer international students and up to $3.4 billion in lost economic contributions in fall 2026).

[35] Proposed Rule, 91 Fed. Reg. at 64,577.

participation grew 21% in 2024/25, even as new international enrollments fell 7%.[36] A $70,000 charge on that opportunity, or $100,000 with STEM OPT, would change the calculation for students deciding today where to apply. The effects would compound declines already under way. International doctoral applications fell 21% and international Common App submissions fell 9% heading into fall 2026, and NAFSA projects up to 111,000 fewer international students this fall.[37] Students who earn their degrees elsewhere are less likely to build their careers in the United States, and their research, patents and startups would benefit other economies.

B. Competitor countries offer post-study work for a small fraction of the cost

Countries competing with the United States for this talent let graduates work after their studies for a modest fee. Australia's Temporary Graduate visa, among the most expensive, now costs AU$4,600, about US$3,000, which is more than 10 times Canada's comparable fee and twice the United Kingdom's.[38] The Proposed Rule would charge more than 20 times that amount. Students weighing their options will notice the difference, and so will the companies that recruit them.

C. The fees would screen for wealth, not talent

The Department itself describes the fees as comparable to "the educational costs that foreign students incur for one or two years of education."[39] When schools pass the cost to students, OPT would be open mainly to students whose families can afford it, not to the most talented. The rule risks favoring students who plan to return home over those most likely to build careers and companies in the United States. That is the opposite of what American competitiveness requires.

The United States should take a different approach. It should encourage the best and brightest, particularly from allied and partner countries that share American values, to study here and stay here. CTA would welcome the opportunity to work with the Department and Congress on policies that do so.

VI. A Flat Fee Is a Blunt and Poorly Targeted Anti-Fraud Tool

A fee may deter some fraud, but it is far from the most effective way to do so. It applies the same charge to the engineering graduate joining an established manufacturer as to a student working for a shell company. The Department's evidence of fraud consists of a limited set of investigations and news reports.[40] Those problems deserve enforcement. They do not justify a charge on every participant that the Department expects to sharply reduce lawful participation. In September, a federal court found the Department's rationales for another rule affecting international students "exceptionally weak" and the connection between that rule and the problems it purported to address "exceptionally attenuated."[41]

The fee also would not fund the oversight the Department says it needs. The Department describes the fees as "essential in addressing the vulnerabilities of the OPT program," yet it acknowledges that because the statute "does not provide legal authority for ICE to retain the funds collected," the Department would deposit the fees in the general

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[36]Danijela Jurjevic, *Is OPT Becoming a Strategic Pillar of International Recruitment?*, Keystone Educ. Grp. (Nov. 26, 2025), https://www.keg.com/news/is-opt-becoming-a-strategic-pillar-of-international-recruitment.

[37]NAFSA: Ass'n of Int'l Educators & JB Int'l, *supra* note 34 (citing Association of American Universities and Common App data).

[38]*Australia Doubles Post-Study Work Visa Application Fee*, ICEF Monitor (Mar. 4, 2026), https://monitor.icef.com/2026/03/australia-doubles-post-study-work-visa-application-fee/.

[39]Proposed Rule, 91 Fed. Reg. at 64,575.

[40]Proposed Rule, 91 Fed. Reg. at 64,570–71.

[41]*Presidents' All. on Higher Educ. & Immigr. v. U.S. Dep't of Homeland Sec.*, No. 26-13799-FDS, slip op. at 7 (D. Mass. Sept. 14, 2026) (memorandum and order on motion for preliminary injunction), *appeal docketed*, No. 26-2112 (1st Cir. Sept. 30, 2026).

Treasury as miscellaneous receipts.[42] The Department suggests only that Congress could later appropriate the funds, and it states that the fee's deterrent effect does not depend on that outcome.[43] None of the revenue would pay for site visits, investigations or SEVP's oversight capacity, which the coalition letter specifically supported strengthening. The targeted measures in Section II would address fraud directly. The proposed fee would not.

VII. The Economic Analysis Understates Costs and Does Not Weigh Reliance Interests or Alternatives

The analysis estimates no benefits and undercounts costs. The Department estimates that the rule would impose costs of $4.1 billion a year in its primary estimate, or $35.1 billion over 10 years at a 3% discount rate, in addition to fee payments of $12.4 billion a year.[44] Yet its accounting statement lists the rule's monetized benefits as "Not Estimated."[45] The Department also "assumes these opportunity costs are equal to or less than the proposed fee per OPT instance," even as it "recognizes that in some instances, the societal benefits associated with OPT participation may have exceeded this amount."[46] That assumption omits what matters most to employers and the economy: the output of workers employers would no longer hire, the cost and delay of replacing them, the projects employers would move or postpone, offshoring and the downstream loss of innovation and new firms.

The participation assumptions lack empirical support. The Department's range runs from a high scenario in which participation does not change at all to a low scenario in which schools stop recommending every non-STEM student. Its primary estimate simply averages the two.[47] The Department offers no evidence for where participation will actually fall.

The analysis does not weigh reliance interests. The Department asserts that the national interest "far outweighs any reliance interests of foreign students, employers (including state and government employers), or educational institutions."[48] But it offers no analysis of what employers have invested. Employers have built hiring pipelines, university partnerships, training programs and workforce plans around OPT for decades, and around the current STEM OPT framework since 2016.[49] Students have chosen schools and programs in reliance on OPT. Courts have recently faulted the Department for these same omissions in related immigration actions.[50]

The analysis ignores cumulative effects. As Section IV.D explains, the analysis does not consider how the OPT fee combines with the Department's other recent and proposed H-1B fees and rules.

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[42] Proposed Rule, 91 Fed. Reg. at 64,576.

[43] *Id.*

[44] *Id.* at 64,579, 64,583.

[45] *Id.* at 64,580.

[46] *Id.* at 64,588.

[47] *Id.* at 64,582–83.

[48] *Id.* at 64,578.

[49] Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students With STEM Degrees and Cap-Gap Relief for All Eligible F-1 Students, 81 Fed. Reg. 13,040 (Mar. 11, 2016).

[50] *Glob. Nurse Force v. Trump*, No. 25-cv-08454-HSG, slip op. at 26–27 (N.D. Cal. Sept. 30, 2026) (order granting in part motion for preliminary injunction) (finding "no question" that the agencies "failed to consider any alternatives or the reliance interests of the regulated parties" (citing *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 33 (2020))); *Presidents' All.*, *supra* note 41, slip op. at 27, 38 (finding that DHS "failed to conduct a meaningful consideration of other alternatives" and "failed to consider deeply entrenched reliance costs").

VIII. If the Department Proceeds With Any Fee, It Should Make the Following Changes

CTA's primary recommendation is that the Department adopt the targeted measures in Section II in place of the proposed fees. If the Department nonetheless proceeds with any fee, it should at a minimum:

1. **Waive the fee for critical and emerging technology fields.** Exempt graduates who work in fields critical to national security and economic competitiveness, such as semiconductor design, advanced packaging, quantum systems and artificial intelligence. This is consistent with the Administration's National Security Science and Technology Strategy and its emphasis on "attracting and retaining top-tier global talent in critical national security science and technology fields."[51] The Department should make the criteria developed to assess eligibility consistent with criteria or codes developed by other agencies.[52]
2. **Waive the fee for federally funded research.** Exempt graduates working on research that federal agencies fund, where the government has already invested in the work and the talent.
3. **Protect current participants.** Exempt from the initial fee any student who held OPT before the effective date or treat them as having already paid it. A STEM extension for a current employee should never trigger the $70,000 initial fee.
4. **Reject re-imposing the initial fee at each degree level.** The Department requests comment on applying the $70,000 initial fee again "to any initial period of OPT following the F-1 student's change to a higher educational level."[53] CTA strongly opposes this alternative. It would penalize the master's and doctoral graduates most important to U.S. research and development.
5. **Eliminate or substantially reduce the STEM OPT fee.** STEM OPT already carries the program's strongest safeguards: E-Verify, training plans, employer attestations and site visits. A $30,000 charge on top of those safeguards adds no integrity benefit.
6. **Exempt or reduce fees for small entities.** The Department estimates that 56% of regulated SEVP-certified institutions are small entities.[54] The fee should not fall on small schools, or, when schools pass it through, on small businesses and startups, at the same level as on the largest institutions and employers.
7. **Fix the refund process.** Allow refunds when an employer withdraws an offer of employment after USCIS issues the employment authorization document and provide administrative appeal of refund decisions.[55]
8. **Address schools that stop recommending OPT.** Explain how eligible students can access OPT if their school declines to pay. Access to a regulatory benefit should not depend on an individual school's budget.
9. **Clarify pass-through arrangements.** Confirm how fee arrangements among schools, students and employers interact with wage-and-hour and other applicable law, so employers can respond to reimbursement requests consistently and lawfully.
10. **Allow adequate transition time.** Set an effective date at least 12 months after publication of any final rule so schools, students and employers can plan.

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[51] Coalition Letter, *supra* note 2, at 2.

[52] *See, e.g.*, The White House, National Security Science and Technology Strategy app. A (2026) (listing critical and emerging technologies, including artificial intelligence, quantum technologies and semiconductors and microelectronics); Update to the Department of Homeland Security STEM Designated Degree Program List, 89 Fed. Reg. 59,748 (July 23, 2024) (identifying qualifying fields of study by Classification of Instructional Programs (CIP) code).

[53] Proposed Rule, 91 Fed. Reg. at 64,576–77.

[54] *Id.* at 64,576.

[55] *Id.* at 64,577.

IX. Legal Concerns

CTA also notes questions about the Department's authority to impose the proposed fees. The Department relies on INA § 214(a), which authorizes rules setting the "time" and "conditions" of nonimmigrant admission, and acknowledges that the same statute does not allow ICE to retain the funds.[56] A $70,000 charge that bears no relation to the cost of any service, and that the Department would deposit in the general Treasury, looks less like a condition of admission than a revenue measure, and the power to impose taxes belongs to Congress. A federal court recently reached a similar conclusion about the $100,000 H-1B payment.[57] The Proposed Rule also raises concerns under the Administrative Procedure Act. These include whether the fee amounts bear a rational connection to the stated anti-fraud purpose, the dismissal of less burdensome alternatives, the failure to weigh reliance interests and a 30-day comment period for a rule of this scale. CTA raises these issues so the Department can address them before taking further action. The charge also collides with user-fee principles under the Independent Offices Appropriations Act, which require that a fee approximate the cost of a service provided to the payer rather than raise general revenue.[58] On reliance, *Encino Motorcars v. Navarro* and *DHS v. Regents* require the Department to confront the settled expectations that students, schools and employers have ordered around the longstanding OPT framework, which the Proposed Rule does not adequately do.[59]

X. Conclusion

CTA and its members support strong enforcement against fraud and abuse in the OPT program. But the Proposed Rule would do little to address those problems while imposing enormous costs on American employers, particularly startups and small businesses. It would make it harder for American companies to hire the talent they need, encourage investment and jobs to move overseas, and undermine our nation's leadership in technologies critical to economic growth and national security.

America should be doing everything possible to attract and retain the world's best scientists, engineers and entrepreneurs, particularly those we have already educated at our own universities. We should not be pricing them out of the American workforce.

CTA urges the Department to withdraw the proposed fees and instead pursue targeted measures that address fraud without undermining American innovation. If the Department proceeds with any fee, it should at a minimum adopt the changes in Section VIII. We stand ready to work with the Department to develop those measures.

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[56] *Id.* at 64,576.

[57] *Mullin*, *supra* note 5.

[58] *See* 31 U.S.C. § 9701(b); *Nat'l Cable Television Ass'n v. United States*, 415 U.S. 336, 340–41 (1974).

[59] *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016); *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30–33 (2020).

Sincerely,



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