

# **AG Kaul: AG coalition file multistate lawsuit seeking nationwide injunction against new visa rule for international students**

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MADISON, Wis. – Attorney General Josh Kaul today announced a coalition of 18 attorneys general filed a lawsuit to stop a new federal rule that threatens to bar hundreds of thousands of international students from studying in the United States.

The lawsuit, filed in the U.S. District Court in Massachusetts against the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE), challenges what the attorneys general call the federal government's "cruel, abrupt, and unlawful action to expel international students amidst the pandemic that has wrought death and disruption across the United States." Today's lawsuit seeks an injunction to stop the entire rule from going into effect.

"This unlawful policy pressures colleges and universities to provide in-person instruction regardless of whether it's safe to do so and threatens to cause further harm to our economy," said Attorney General Kaul. "While it's been clear for months that we can't count on the Trump administration to effectively lead the fight against the pandemic, the administration at least shouldn't interfere with the hard work that others are doing to slow the transmission of the coronavirus and protect public health."

Today's lawsuit also includes 39 declarations from a variety of institutions affected

by the new rule, including information from University of Wisconsin – Madison, University of Wisconsin – Milwaukee, University of Wisconsin – Stevens Point, and University of Wisconsin – Stout.

Harms to Wisconsin schools include:

- At UW-Stevens Point, 84 international students from 20 countries pay more than \$2.2 million in tuition.
- At UW- Stout, 97 international students contribute nearly \$2.7 million in tuition.
- UW-Milwaukee could lose up to half of the approximately 1,200 international students, who pay approximately \$21.5 million in tuition, and \$5.1 million in housing, in addition to the money these students spend at businesses supporting the local economy.
- In 2019, international students at UW-Madison paid approximately \$161.8 million in tuition and fees, and \$18.8 million in housing.
  - 1,057 course sections, or 26.5% of courses, are taught by international teaching assistants.
- UW-Green Bay has 80 enrolled students with F-1 visas who contribute approximately \$1.4 million in tuition and fees every year. Green Bay could lose up to \$831,100 if its 32 newly admitted students who require F-1 visas are not admitted to the county. The rule may also severely disrupt Green Bay's Division 1 athletics, particularly in Men's soccer.

Today's lawsuit challenges an abrupt policy change by ICE to reverse guidance issued on March 13 that recognized the COVID-19 public health emergency, provided flexibility for schools, and allowed international students with F-1 and M-1 visas to take classes online for the duration of the emergency. On July 6, ICE announced that international students can no longer live in the United States and take all of their classes online during the pandemic, upending months of careful planning by colleges and universities to limit in-person instruction in favor of remote learning and adapt their coursework for the fall semester, and leaving thousands of students with no other choice but to leave the country.

ICE further demanded that educational institutions advise the federal government by July 15 whether they intend to offer only remote courses in the fall semester, and to certify by August 4 for each of the institutions' international students that the

student's upcoming coursework this fall will be in person or a "hybrid" of in-person and online learning in order to maintain their visa status. This demand comes not only amidst an ongoing nationwide emergency, but also at a time when many faculty, staff, and students are not on campus and may not even be in the country; students may not even have registered for their classes for the fall; and schools and individual teaching staff members may not yet have determined whether their classes will be held remotely, in person, or a combination.

The lawsuit details the substantial harms that the new rule places on schools and students. It also alleges that the federal government's actions are arbitrary, capricious, and an abuse of discretion because they reversed previous guidance without explanation, input, or rationale - in violation of the Administrative Procedure Act - and failed to consider the need to protect public health and safety amidst the ongoing COVID-19 pandemic.

The attorneys general say the new rule and abrupt reversal of the previous guidance threatens their states in a number of ways:

- Fails to consider the health and safety of students, faculty, and staff;
- Fails to consider the tremendous costs and administrative burden they would impose on schools to readjust plans and certify students;
- Fails to consider that, for many international students, remote learning in the countries where they come from is not possible;
- Imposes significant financial harm to schools, as international students pay hundreds of millions of dollars in tuition, housing, dining, and other fees;
- Imposes harm to schools' academic, extracurricular, and cultural communities, as international students contribute invaluable perspectives and diverse skillsets; and
- Forces colleges and universities to offer in-person classes amid a pandemic or lose significant numbers of international students who will either have to leave the country, transfer, or disenroll from the school.

The lawsuit also alleges the new rule imposes significant economic harm by precluding thousands of international students from coming to and residing in the United States and finding employment in fields such as science, technology, biotechnology, healthcare, business and finance, and education, and contributing to

the overall economy.

Joining Wisconsin in today's lawsuit are the attorneys general of Colorado, Connecticut, Delaware, District of Columbia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, Vermont, and Virginia.

Relevant court filings are attached.

<https://www.doj.state.wi.us/news-releases/ag-kaul-ag-coalition-file-multistate-lawsuit-seeking-nationwide-injunction-against-new>