

**EXH. 13**  
**DECL. OF MARTIN BERGER**  
**(SCHOOL OF THE ART INSTITUTE OF CHICAGO)**

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

COMMONWEALTH OF MASSACHUSETTS,  
et al.,

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, et al.,

*Defendants.*

Civil Action No.

**DECLARATION OF MARTIN BERGER,  
SCHOOL OF THE ART INSTITUTE OF CHICAGO**

## DECLARATION OF THE SCHOOL OF THE ART INSTITUTE OF CHICAGO

I, Martin Berger, pursuant to 28 U.S.C. § 1746, hereby declare and affirm,

1. I am the provost and senior vice president of academic affairs at the School of the Art Institute of Chicago (SAIC) located in Chicago, Illinois. My educational background includes two master and a doctoral degree from Yale University and a bachelor degree from Wesleyan University. I have been employed as provost and senior vice president of academic affairs since April 2019, having previously served as SAIC's dean of faculty and vice president of academic affairs.

2. I submit this declaration in support of Illinois' litigation challenging the policies announced on July 6, 2020 by "Broadcast Message" and to be published as a Temporary Final Rule to amend requirements of the Student and Exchange Visitor Program (the "Rule").

3. I have compiled the information set forth below through personal knowledge and with the aid of SAIC personnel who have assisted me in gathering this information from our institution. I have also familiarized myself with the Rule in order to understand its immediate impact on SAIC.

4. For more than 154 years, SAIC has been a leader in educating artists, designers, and scholars. With a fine arts graduate program ranked No. 2 in the nation by *US News and World Report*, SAIC provides an interdisciplinary education to more than 3,600 undergraduate, graduate, and post-baccalaureate students, along with exceptional resources, including access to state-of-the-art studios, equipment, and exhibition galleries, and the encyclopedic art collection of the Art Institute of Chicago museum.

5. As of fall 2019, SAIC enrolls more than 3,600 undergraduate, graduate, and post-baccalaureate students and offers 23 degree programs. More than 1,500 faculty and staff are employed by SAIC. The School founded or influenced some of Chicago's most iconic institutions, including the Art Institute of Chicago museum, DuSable Museum of African American History, Southside Community Art Center, and the Hyde Park Art Center, seeding art and design within communities throughout Chicago. Over the past half century, our reach has extended across the US and around the globe.

6. SAIC currently has 1,200 enrolled students with F-1 visas. These students are citizens of 64 countries.

7. Of students with F-1 visas, we estimate that 630 students are currently in the United States.

8. SAIC has 390 newly admitted students for enrollment in fall 2020 who will require F-1 visas. Of these students, 80 are currently in the United States, and 310 live outside the United States and require a visa to enter the country for study.

9. SAIC was an early recruiter of international students among the leading art and design institutions in the US. We understood that our domestic students benefit from the rich perspectives and art traditions brought to the school by students from around the world and that international students thrive with access to our unparalleled facilities and faculty. Over the past two decades, SAIC has evolved into a global school of art and design with thousands of international alums who both contribute to the art and culture of the US and their home countries.

10. Many current and newly admitted international students and their parents, have articulated to SAIC staff their hesitancy to attend a US school in light of the proposed Rule. In their estimation, the Rule is evidence that the US is not offer a conducive environment for international students to pursue their undergraduate or graduate education.

11. SAIC has spent months developing thoughtful and adaptable reopening plans that will allow us to respond to real-time health conditions in Chicago and Illinois. These plans balance the need to safeguard the health of our students, faculty, and staff with our commitment to deliver a world-class art and design education. Our work has been informed by the expert knowledge of our faculty and staff in art and design education and by experts from our campus health center, and the Center for Disease Control, Chicago Department of Public Health, and Illinois Department of Public Health on matters of health and safety. Our reopening plan will soon be assessed by a newly hired infectious disease consultant. It's imperative that our reopening respond to evolving health and safety conditions while keeping our mission as an institution of art and design in mind, rather than being driven by an inflexible Rule that precludes consideration of context. If Chicago continues to have low viral positivity rates, we intend to open in September with a thoughtful mix of in-person, hybrid, and online courses. But should conditions deteriorate between now and our opening date, or should a second wave of COVID-19 hit Illinois mid-way through the fall semester, we have contingency plans to pivot to an all-online semester.

12. Copious anecdotal evidence suggests that the Rule will dissuade many matriculated international students from returning to us in the fall and many newly admitted international students from enrolling. Students and their parents regard the Rule as evidence of

xenophobia and worry that it threatens to arbitrarily force international students to leave the country (should SAIC be required to modify how we deliver our education mid-semester based on the evolving viral threat) and so diminish their educations, social and cultural engagements, and CPT/OPT opportunities. Given that international students enrich the artistic and social life of the institution, and the city of Chicago, more broadly, and considering that they represent a third of our total student population, I fear that implementation of the Rule would have a detrimental impact on our international and domestic students' education and on the vibrancy of SAIC as a whole.

13. International students make up a large percentage of SAIC's student population, and if they are unable to study from within the US, lose their F-1 visas, cannot obtain CPT/OPT work visas, or cannot engage in online learning from their home country (due to the challenges of time-zone differences or because of internet connectivity problems), many will disenroll from SAIC. We estimate that a significant percentage of our current and newly admitted international students will not attend this fall should the Rule be implemented.

14. SAIC is planning to offer a large percentage of in-person teaching and learning this fall, as well as living accommodations for students in our de-densified residence halls. While details are still being finalized, we anticipate this will result in a hybrid learning model—a combination of in-person, mixed in-person and online, and online classes—for our students. But beyond the matter of how courses will proceed, it is important to bear in mind the many additional benefits that students derive from being located on campus. Even if we are forced to pivot to online education at some point in the fall, we would endeavor to allow students continued access to our shops and studios and to the art collection of the Art Institute of Chicago

museum, safety permitting. International students in residence will also benefit from ongoing social engagement with their peers within the SAIC community in Chicago and the programming offered by our residential life staff.

15. We have staff dedicated to supporting our international students. The complexity of implementing new processes and requirements to comply with the Rule—including the reissuance of I-20s, which is a labor-intensive and time-consuming process—would diminish the capacity of staff to provide the vital support our international students need during the course of a normal academic year.

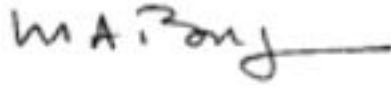
16. The expected disenrollment of international students due to the Rule will negatively impact the robust art and design community at SAIC. Even if international students are able to continue their studies with us from outside of the US, they will be unable to replicate the uniquely rich experience of those who study in Chicago, losing the ability to engage in campus life, make use of our state-of-the-art facilities and art collections, and benefit from the energy and collaborative exchanges among their faculty and peers.

17. If SAIC's international students lose their F-1 status, many will also face significant financial hurdles stemming from the need to pay for last-minute travel to their home countries, loss of campus employment, disruption of their semesters, and need to seek alternative housing arrangements with little advance notice.

18. The proposed Rule has left our international students feeling unwelcome in the US and many of our domestic students, faculty, and staff, fearful of its potential to impair the character and vibrancy of SAIC.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11 day of July, 2020

A handwritten signature in black ink, appearing to read "M. Berger", with a horizontal line extending to the right from the end of the signature.

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Martin Berger  
Provost and Senior Vice President of Academic  
Affairs  
School of the Art Institute of Chicago