

EXH. 2
DECL. OF THOMAS C. KATSOULEAS
(UNIVERSITY OF CONNECTICUT)

**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 THOMAS C. KATSOULEAS

DECLARATION OF THOMAS C. KATSOULEAS

I, Thomas C. Katsouleas, pursuant to 28 U.S.C. § 1746, hereby declare and affirm:

1. I am the President of the University of Connecticut (“UConn”) with my principal office located in Storrs, Connecticut. I have been employed as the 16th President of the University of Connecticut since August 2019. My educational background includes a Ph.D. in Physics from the University of California-Los Angeles earned in 1984. I held faculty positions at the University of Southern California and served as an Associate Dean for the School of Engineering and Vice Provost of Information Technology Services. I then served as the Dean of Duke University’s Pratt School of Engineering and then the Executive Vice President and Provost for the University of Virginia prior to coming to the University of Connecticut. I am a fellow of the American Physical Society and the Institute of Electrical and Electronics Engineers.

2. I submit this Declaration in support of the State of Connecticut’s litigation challenging the Immigration and Customs Enforcement policies announced on July 6, 2020 by “Broadcast Message,” which are to be published as a Temporary Final Rule to amend requirements of the Student and Exchange Visitor Program (the “July 6 Directive”).

3. I have compiled the information set forth below through personal knowledge and with the assistance of UConn personnel who have gathered and presented me with relevant information. I am aware of and understand the immediate impact of the July 6 Directive on our institution.

4. The University of Connecticut, founded in 1881, is the State of Connecticut's flagship institution of higher learning, with ten schools and colleges at its main campus in Storrs, separate Schools of Law and Social Work in Hartford, four regional campuses throughout the

state, and Schools of Medicine and Dental Medicine at UConn Health in Farmington. UConn is a Land Grant and Sea Grant public institution and a member of the Space Grant Consortium. UConn is accredited by the New England Commission of Higher Education. In addition to academic programs, UConn operates a hospital, outpatient medical facilities, research and development facilities, performing arts venues, athletic complexes, agricultural centers, residential complexes, and transportation systems.

5. Connecticut's Constitution and statutes establish that UConn is a constituent unit within the state's system of public higher education. Specifically, Article VIII, Section 2 of the Connecticut State Constitution provides that "[t]he State shall maintain a system of higher education" and empowers the State's General Assembly to determine the size, number, terms and method of appointment of UConn's governing board. In accordance with this state constitutional mandate, the Connecticut General Assembly has enacted numerous statutes governing the operation and programs of the state system of public higher education, including UConn. Connecticut General Statutes § 10a-1 lists the University of Connecticut and all of its campuses as part of this system of public education, while Connecticut General Statutes § 10a-103 establishes the University Board of Trustees and Connecticut General Statutes §§ 10a-104 and 10a-149 delineate the authority, duties and responsibilities of the Board of Trustees. In addition to authorization, the State provides significant financial support to UConn - a total of \$371.5 million in state appropriation and fringe benefit funding to UConn's main and regional campuses and an additional \$295.4 million to UConn Health for the 2020 Fiscal Year.

6. For the 2019-2020 Academic Year, UConn had a total enrollment of 23,900 undergraduate students and 8,433 graduate and professional students. Within our student body, 77% of our undergraduate and 65% of our graduate and professional students were Connecticut

residents, while 9% of our undergraduate and 25% of our graduate and professional students were international students representing 103 countries as of Fall 2019. UConn employs 9,620 full-time and part-time faculty and staff among our 14 schools and colleges spread among our seven campuses state-wide. UConn offers 117 majors among our eight undergraduate degrees, 17 graduate degrees, and six professional degree programs. Both Storrs and the Stamford campus have residential housing, with approximately 12,000 and 400 on-campus residential students respectively. A recent economic analysis conducted by UConn estimates that the institution generates about \$5.3 billion worth of economic activity for the State of Connecticut, including nearly 26,000 jobs and \$277.5 million in state and local tax revenue through industries that benefit from UConn's enterprise.¹

7. UConn, including UConn Health, currently has 2,794 active, enrolled students who have F-1 visas. These students come from 103 countries and contribute \$160,000,000 annually in tuition, fees, room and board to UConn.

8. Of these current students with F-1 visas, 2,033 are currently in the United States, and 761 are currently outside of the United States.

9. In addition to the above number of current F-1 students, UConn, including UConn Health, has 821 newly admitted students for enrollment commencing Fall 2020 who will require F-1 status. Of these students, an estimated 64 are currently in the United States and 757 are currently living outside the United States and require a visa to enter the country for study.

10. On March 10, 2020, in an effort to "limit the spread of the COVID-19 coronavirus and protect public safety," Connecticut Governor Ned Lamont declared a "public health emergency and civil preparedness emergency" through Connecticut. The next day, UConn

¹ <https://impact.uconn.edu/>

announced that upon return from the 2020 Spring Recess on March 23, 2020, it would move all of its programs to an online-only model of learning through April 6, 2020, as a “necessary” means of “reducing the number of people working or living in close quarters on our campuses.” All employees who were able to telecommute began to work from home as of March 14, 2020, and UConn’s Stamford campus was closed entirely on March 12, 2020 due to the higher infection rates of COVID-19 in that region of the state. On March 17, with the COVID-19 infection rates increasing, UConn announced that online-only courses would remain in place for the duration of the Spring 2020 semester. This decision was painful for the university, its faculty and staff, and its students - but it was necessary to protect the university community and to further the university’s mission. It was the best way to provide the best possible education to UConn’s students while limiting the spread of COVID-19 among students, faculty, staff, and the surrounding communities.

11. Almost immediately after deciding to continue with a remote learning model for the duration of the Spring 2020 semester, UConn began planning higher education operations for the fall. Connecticut Governor Ned Lamont instituted the Higher Education Subcommittee of the Reopen Connecticut Advisory Group (“Reopening Task Force”), in which Rachel Rubin, my Chief of Staff, participates on behalf of UConn. On May 6, 2020,² the Reopening Task Force issued guidance on the reopening of colleges and universities. Multiple updates have followed. This guidance recommended a phased approach to reopening, with each new step towards reopening triggered by public health and safety conditions, referred to as “gating conditions.” Under the guidance, plans for reopening include specific information on how institutions of

² First announced on May 6, 2020, and then reissued on May 8, 2020.

higher education will implement actions to repopulate campuses, monitor health conditions, contain the spread of disease if detected, and shut down in the event that becomes necessary.

12. In accordance with the state guidance, UConn administration spent weeks determining the course of action for the Fall 2020 semester that would best prioritize the health and safety of UConn and the greater Connecticut community while maximizing educational opportunities for students. We have phased reopening and multiple contingency plans drawn up to respond to the range of possible health scenarios our institution might face. Our decisions were the product of careful, time-consuming deliberation and consultation with experts in infectious diseases, crisis management, economics, and health care policy; state and local leaders; administrators and experts at other universities; and experts around the world.

13. In light of the gating conditions, UConn determined that it would be extremely difficult - if not impossible - to hold classes at full capacity in lecture halls and other classrooms as we traditionally have in the past without a substantial likelihood that COVID-19 would spread rapidly and widely, endangering the health and lives of our students, faculty, staff, and community members on and off campus. With respect to campus housing, we determined that our residential model would need to be significantly altered, with limited density to provide social distancing and dedicated spaces for quarantine and isolation capacity if necessary.

14. In terms of course offerings for the Fall 2020, the University asked faculty, wherever possible, to determine the learning modality that is most effective pedagogically while mindfully lowering population density on campus. University faculty and staff spent many weeks on updates to the course schedule. Under our Fall 2020 reopening plan, classes will be provided in a range of formats including in-person, online, hybrid/blended, and split formats to allow UConn to prioritize both safety and students' educational experience. Classroom capacity

will be reduced and classroom layouts will be reconfigured and signs posted instructing occupants on safe distancing to encourage our community to maintain six feet of separation whenever possible. Flexible modes of course delivery planned for Fall 2020 will enable UConn to continue delivering the same outstanding education to all students while keeping safety at the forefront. Students will not return to campuses on November 29, 2020 following Thanksgiving Recess, and the remainder of the Fall 2020 semester, including final exams, will be online. Fall 2020 on-campus housing will close on Saturday, November 21. The revised Fall 2020 course schedule is published, and students and families are now making adjustments for Fall - essentially planning again their Fall 2020 experience. Course registration for continuing students will open on July 27, 2020.

15. Residence halls will open for Fall 2020 at an approximately 70% capacity with reduced density and a new housing assignment process. On-campus residential students will move in incrementally two weeks prior to the start of classes, starting August 14, 2020, to allow for a period of testing and on-campus quarantine, with all residential students being tested for COVID-19 upon arrival to campus. Dining halls will be open only for take-out service and limited seating. Employees who can telecommute will continue to do so for the Fall 2020 semester.

16. To protect the physical and mental well-being of our faculty and students during this pandemic, UConn believes it is critically important to accommodate those in our community, both faculty and students, who prefer a fully online experience for Fall 2020. Faculty requests for online instruction will be granted, and students needing courses offered by those faculty members for degree progression will be expected to take the courses in an online format.

17. Through painstaking academic planning, UConn has ensured that its students should be able to take a full course load this fall. We expect minimal, if any, disruption to most students' progress to a degree. But keeping all of our students on track requires that students receive at least some if not all of their course content through online modalities, depending upon their program and degree progression. There are currently 3,346 remote learning courses scheduled for the Fall 2020. To further encourage online modalities among our student population, UConn will reduce student fees for full-time undergraduate students at the Storrs campus who complete courses exclusively online and do not live in University housing for Fall 2020.

18. In initially moving to an online model in March 2020, UConn was deeply cognizant of the particular disruption and hardship imposed on the university's substantial community of international students. UConn's planning for its international students was expressly informed by, and reliant on, the guidance issued by United States Immigration and Customs Enforcement ("ICE") on March 13, 2020, titled "COVID-19 Guidance for Student and Exchange Visitor Program Stakeholders" ("March 13 Guidance"). UConn followed this guidance as well as subsequent guidance documents provided by ICE to maintain compliant SEVIS records for our international students.

19. As UConn understood it, the March 13 Guidance afforded international students flexibility to maintain visa status according to UConn's newly-established emergency operations by authorizing international students holding F-1 visas to "count online classes towards a full course of study" in the event their schools stopped in-person classes, regardless of whether the visa holders remained in the United States or departed the United States. UConn took seriously

ICE's promise that the March 13 Guidance would remain "in effect for the duration of the emergency."

20. Prior to July 6, 2020, ICE gave UConn no warning that it planned to reverse or alter the March 13 Guidance with the pandemic still surging throughout much of the country. UConn maintains an ongoing relationship with the federal government, including through a liaison to the Department of Homeland Security, of which ICE is a component department. At no time prior to July 6 did ICE or DHS advise UConn, through that liaison or otherwise, that it contemplated reversing the March 13 Guidance.

21. Because ICE gave no notice that it was considering amending or withdrawing the March 13 Guidance, UConn necessarily relied on the March 13 Guidance as it planned for the Fall 2020 semester. As spring ended and summer began with no new guidance or direction from ICE, and with the start of classes only weeks away, UConn could only rely on the March 13 Guidance to plan for Fall 2020.

22. UConn relied on the March 13 Guidance in advising its international students. Communication from UConn's International Student and Scholar Services ("ISSS") to its international student and scholar community explaining remote learning options during the pandemic began on March 13, 2020, with consistent updates throughout the spring and summer of 2020. An email communication from ISSS on March 13 stated,

Under normal circumstances, students on F and J visas are limited in the number of online courses they may take. The government will allow an exception to this rule because of the emergency circumstances. You will not endanger your F-1 or J-1 visa by taking all online courses in the United States during the period when the University moves to online coursework, as long as you continue to participate on a full-time basis, or otherwise have an approved reduced course load.

ISSS's website advised international students that, in light of the March 13 Guidance, "active students will be able to remain in the U.S. to take their coursework online and maintain an active

SEVIS record/I-20, if that is how the University will offer coursework and if you enroll on a full-time basis.”³ ISSS also completed two University operational reports with the ICE to report on UConn’s spring and summer operations.

23. The July 6 Directive will make it impracticable or even impossible for some of UConn’s F-1 international students to continue to study at UConn and make progress toward their degrees, while imposing academic and living conditions for others that will prompt them to take leaves from their programs - or drop out altogether. As explained above, UConn has already devoted exhaustive efforts to revise and publish its Fall 2020 academic course offerings to promote lower population density on campus. Re-evaluating this newly established schedule, with the focus on creating new opportunities for on-campus learning, will place an administrative burden on faculty and staff, extend confusion for students, and frustrate UConn’s efforts to lower population density on campus, creating both significant administration burdens and unnecessary risk to the health and safety of our campus community.

24. If the July 6 Directive is implemented, UConn may well be unable to ensure sufficient in-person classes to accommodate the needs of the potentially thousands of F-1 students who are enrolled, or intend to enroll, at UConn. Significantly expanding in-person offerings may be impossible in light of UConn’s assurance to its faculty members that they will not be forced to teach in-person if they are not comfortable doing so. International students, in turn, will be forced to withdraw if UConn cannot offer in-person course options to meet the July 6 Directive.

³ <https://iss.UConn.edu/iss-covid-19-faq/>

25. The July 6 Directive furthermore completely upends UConn's plan of transitioning to a fully-online modality after Thanksgiving Recess through the duration of the Fall 2020 semester and final exams. According to the July 6 Directive, F-1 students who remain in the U.S. after UConn has transitioned to a fully online environment will be in violation of their visa status. Global pandemic-related travel restrictions may block their departure. Even if they can leave en masse in the middle of UConn's final exam period, these students will each suffer the risk of significant academic harm for their inability to focus on finals while being forced to travel internationally.

26. Because course registration for Fall 2020 for continuing students is not slated to open until July 27, 2020, it is impossible for UConn to know for certain the number of F-1 students who will not be able to meet the in-person requirements of the July 6 Directive. We are certain, however, that we will not be able to accommodate the July 6 Directive for all of our students absent a complete re-working of our course offerings, which creates significant and utterly unnecessary health and safety risk in defiance of the careful planning that we have completed on behalf of our entire campus community.

27. We anticipate that many F-1 students who cannot meet the in-person requirement of the July 6 Directive will transfer to one of our peer institutions outside of Connecticut, while others will depart the U.S. entirely. When they leave Connecticut, our state's businesses and government will lose the benefit of their economic contributions. Departure of students from on-campus residence deprives UConn of housing and dining revenues and student fees. Departure from UConn entirely would be the most significant loss, depriving UConn of tuition revenue as well as the intangible value that these students provide to our campus.

28. The COVID-19 pandemic has already resulted in massive revenue shortfalls, and significant new expenses, for UConn. On the revenue side, UConn is braced for a loss of up to \$134 million against expected revenues because of student disenrollment and the closure of dorms. The new July 6 Directive threatens to compound those losses by chasing away, excluding, and removing international students, many of whom are significant contributors of tuition revenues for UConn.

29. Under normal conditions, UConn's annual gross revenue from international undergraduate students is \$74 million (\$37 million per semester) and from graduate students is \$86 million (\$43 million per semester), totaling gross revenues from international students of \$160 million annually in tuition, fees, room and board. International students are a particularly important source in income in terms of tuition revenue, as they are almost entirely ineligible for in-state tuition and some forms of financial aid.

30. By threatening to force many F-1 visa holders to withdraw from UConn, the July 6 Directive puts UConn in an impossible position: lose numerous students who bring immense benefits to the school, or seek to retain those students by taking steps that contradict our best judgment about how to protect the health of the University's students, faculty, and staff. UConn has expended tremendous resources on developing protocols for its operations to protect the safety of its students, faculty, staff, and the surrounding community. That careful planning took months. Because of the timing of the July 6 Directive, and the significant time and coordination required to implement public safety measures, it is not feasible for UConn to safely implement University-wide in-person learning for the Fall 2020 semester. Our goal is to welcome all students back to campus for in-person learning as soon as it is safe - but moving precipitously in contravention of the state's Reopening Task Force recommendations and expert guidance would

put our entire community at risk. We cannot implement the necessary safety measures required for University-wide in-person learning by August 31, 2020 (the first day of the Fall semester for most of UConn's schools).

31. As we understand it, the July 6 Directive requires UConn to report any operational change due to COVID-19 to ICE within 10 days of the change, and then reissue Forms I-20 to all of UConn's estimated 3,600 F-1 continuing and new students by August 4, 2020. Those requirements are profoundly costly and burdensome for UConn and its hardworking administrative staff. The July 6 Directive requires an individualized determination to certify in-person instruction for each student prior to re-issuing the Form I-20. This determination and re-issuance process takes at least 20 minutes per student. Compliance, then, would require an estimated 1245 employee hours spread over ten ISSS employees, or a total of 178 work days, to complete forms for each of these 3,600 F-1 students. This would be in addition to the hours spent by ISSS staff each day in advising its constituent population, including an increased need for advising worried students and the University community about the impact of the changes imposed by the July 6 Directive. That additional advising work is estimated to take four hours per day across 15 ISSS staff members. Considering that the salary and fringe costs for the ten ISSS staff members is \$1,000,650 annually, the 178 work days to issue the required new Forms I-20 equates to \$487,988 in labor costs. The additional advising load of 4 hours per day for 180 days by 15 staff members equals \$555,155 in labor costs. The financial burden upon UConn on staffing alone simply to comply with the administrative burdens of the July 6 Directive - to say nothing of the massive programmatic changes that the Directive imposes - is therefore estimated at \$1,043,143.

32. The loss of international students would deprive all of our UConn's students of one of the great benefits of their experience here. As our State's flagship public university, and as a Land and Sea Grant institution, UConn promotes the health and well-being of Connecticut's citizens through enhancing the social, economic, cultural and natural environments of the state and beyond. Welcoming and educating international students is critical to UConn's educational mission and core values as a comprehensive and multi-cultural global research institution. UConn and its students benefit enormously from the participation of international students. Indeed, UConn's commitment to diversity depends upon the presence of our international students. UConn places great emphasis on a diverse student body, and international students offer perspectives that other students otherwise may never experience.

33. The July 6 Directive also directly harms our international students. Forcing our F-1 students to go abroad, even if they choose to remain with UConn remotely, deprives these students of significant value to their education. They lose the ability to participate in clinical experiences that might not count towards credit. They lose the valuable opportunity to communicate and collaborate in person with professors. They lose the valuable opportunity to interact with and learn from their peer students. They lose the valuable opportunity to be involved in campus life - clubs, organizations, sports, social interactions, those aspects of an academic experience that make this period of their lives so memorable and formative.

34. The July 6 Directive has severe negative impacts on our graduate student operations. The majority of our normally enrolled 1,600 international graduate students serve as teaching and research assistants and are slated to provide essential services in support of our Fall 2020 re-opening efforts. Requiring teaching assistants to provide instruction from remote locations in their home countries, potentially with considerable time-zone disparities and variable

internet connectivity, will make it hard if not impossible for faculty to coordinate with them and obtain the full benefit of their pedagogy. For those unable to complete their service abroad, UConn will be left with little to no time in which to find qualified individuals to replace this lost workforce and provide the necessary services.

35. UConn's F-1 international students who cannot meet the requirements of the July 6 Directive are in severe risk of violating their F-1 status through no fault of their own but rather due to the impossibility of a timely departure from the U.S. Due to the COVID-19 pandemic and the high infection rates in the U.S., many other countries have suspended entry of individuals currently in the U.S. By way of example, UConn's F-1 students who must transit through Europe will not be able to do so, and the earliest available flights to China are currently being booked for late September. This forced departure delay will force F-1 students to be in violation of their status through no fault of their own, with long-term detrimental consequences on their ability to return to the U.S. in any lawful status.

36. The economic burden of the July 6 Directive will be felt not only by UConn but also by the impacted students. Forced, unanticipated travel to F-1 students' home countries will be a financial burden to the students. Leases for local housing will be canceled, resulting in financial penalties to the students and disruption to the local landlords who support our student housing efforts.

37. Completing coursework online from their home countries is not a practical option for many international students. Internet access can be unreliable, nonexistent, or sometimes barred by local country firewalls, preventing the completion of online education. Foreign governments may not recognize degrees earned through online education. Time zone differences make many online modules impractical for students. International graduate students in STEM

fields may not be able to perform their research due to grant restrictions on performing research abroad.

38. The July 6 Directive could also lead to a cruel separation of students from their immediate families. F-1 students whose parents are in the U.S. on work visas are especially vulnerable to this possibility. We estimate 11 UConn students are in active F-1 status or transitioning to F-1 status while living here with their parents. While they are maintaining residences outside the U.S. and their visa status is independent of their parents, they are still young individuals who could face great emotional and personal hardship if forced to separate from their parents and siblings.

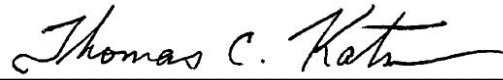
39. The July 6 Directive will also cause substantial economic harm to the state of Connecticut. The nonprofit international education and exchange professional organization NAFSA: Association of International Educators reports that international students contribute an estimated \$588.9 million each year to the state,⁴ with UConn as the top institution of higher education in the state driving this economic contribution. And the Directive will harm the state's workforce, since international students who depart Connecticut are unlikely to return, depriving the state of potential valuable, educated employees.

40. In sum, the harmful impacts of the July 6 Directive are immediately being felt by the UConn community, although the total long-term detrimental impact will not be quantifiable for some time. International students are an integral part of UConn and our state. The July 6 Directive is cruel toward our students, nonsensical in terms of educational value, and categorically harmful to the health and safety of our campus community.

⁴ <https://www.nafsa.org/isev/reports/state?state=CT&year=2018>; see also *Open Doors: Report on International Education Exchange* sponsored by the U.S. Department of State, available at <https://www.iie.org/-/media/Files/Corporate/Open-Doors/Fact-Sheets-2019/State/Connecticut.ashx?la=en&hash=DA50285F0DCCC0D098AB7319762A6B22269E7A46>

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 11 day of July, 2020

Handwritten signature of Thomas C. Katsouleas in cursive script.

Thomas C. Katsouleas
President
University of Connecticut