

EXH. 25
DECL. OF KENNETH W. HENDERSON
(NORTHEASTERN UNIVERSITY)

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

COMMONWEALTH OF MASSACHUSETTS, et.
al.,

Plaintiffs,

v.

Civil Action No. _____

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, et. al.,

Defendants.

DECLARATION OF KENNETH W. HENDERSON

I, Kenneth W. Henderson, pursuant to 28 U.S.C. § 1746, hereby declare and affirm:

1. I am the Chancellor and Senior Vice President for Learning at Northeastern University located in Boston, Massachusetts. Since 2019, I have served as the university's first chancellor leading a broad portfolio of learning functions for Northeastern University, including overseeing internationalization and learner mobility; the global campuses; innovation in experiential learning, embracing digital and lifelong learning; student affairs; as well as enrollment management. In this capacity, I serve as a member of the Senior Leadership Team of Northeastern University, which directs the overall operation and strategic direction of the university under the leadership of President Joseph E. Aoun.

2. I submit this declaration in support of the Commonwealth of Massachusetts' litigation challenging the statement 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. The information set forth below is being presented based on personal knowledge and the accumulated efforts of Northeastern University 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 Northeastern University and many of its constituents if upheld.

Background on Northeastern University and F-1 International Students

4. Founded in 1898, Northeastern University ("Northeastern") is a global R1 research university (R1 is a designation by the Carnegie Classification system for U.S. universities with the highest level of research activity), and the recognized leader in experience-driven lifelong learning and multi-disciplinary education. Our world-renowned experiential approach empowers our students,

faculty, alumni, and partners to create impact far beyond the confines of discipline, degree, and campus. Our locations—in Boston; Charlotte, North Carolina; Seattle; Silicon Valley; San Francisco; Toronto; Vancouver; London; Portland, Maine and the Massachusetts communities of Burlington and Nahant—are nodes in our growing global university system. Through this network, we expand opportunities for flexible, student-centered learning and collaborative, solutions-focused research. Northeastern’s comprehensive array of undergraduate and graduate programs— in a variety of on-ground and online modalities, which includes hybrid formats —lead to degrees through the doctorate level in nine colleges and schools. Among these, we offer more than 195 multi-disciplinary majors and degrees designed to prepare students for purposeful lives and careers. Northeastern’s broad community of support includes more than 257,000 alumni in nearly 180 countries around the world.

5. Experiential learning, anchored by our renowned cooperative education program (“co-op”), lies at the heart of academic life at Northeastern. Through experiential learning and our signature co-op program, our students bring their academics to life, and their life experiences back to their classroom. We prepare our students to engage with the world—not just learn about it. The integration of study with professional work, research, and service in more than 80 countries around the world gives students real-world opportunities and responsibilities. Students explore their path, acquire a deeper grasp of their studies, and develop an understanding essential to lifelong achievement.

6. As an R1 research institution, Northeastern has a robust and comprehensive research structure, engaging with critical issues affecting modern society. Northeastern’s research enterprise is strategically focused on building interdisciplinary teams to solve global challenges in health, security, and sustainability. Institutes in mission-critical fields fuel research partnerships with industry, government, and academia. As of 2019, Northeastern received \$178.3M in external research awards in areas of global focus, including through our nine Research Institutes.

7. Northeastern University is proud to have one of the most globally diverse university populations in the country. In fall 2019, more than 39,000 students were enrolled throughout the university's U.S. and global campus locations and through its online programs. The student body represents all 50 U.S. states and over 144 countries. As one of the largest international student populations in the country, international students comprise over 30 percent of the university's overall enrollment (undergraduate and graduate), of which over 20 percent are full-time degree-seeking undergraduates.

8. Northeastern University supports academic excellence through its more than 3,000 full-time and part-time faculty members. In addition, the university's administrative and support staff totals nearly 3,000 full-time employees and more than 200 research professionals.¹

9. Northeastern University currently has over 13,000 enrolled F-1 international students. These students come from over 140 countries and contribute more than \$400 million per year in tuition, housing fees, etc. to Northeastern University. Of these F-1 international students, the majority are currently in the U.S. We believe approximately 15 to 20 percent of our current F-1 international students are outside of the U.S. – with a larger proportion at the undergraduate level.

10. Northeastern University has over 7,300 newly admitted undergraduate and graduate students for enrollment in fall 2020 who will require F-1 status. Of these students, approximately 1,000 are currently in the U.S. and over 6000 are currently living outside the U.S. and require a F-1 visa to enter the country for study.

11. Northeastern University and our F-1 international students are faced with the ultimatum of meeting in-person requirements or having their F-1 immigration status impacted without clarity, or detailed guidance, about how to meet the requirements of the issued statement, particularly given the very short timeframe mandated for compliance. We are being asked to

¹ <https://facts.northeastern.edu/>

exclusively choose and certify, without the necessary flexibility during a global pandemic, which modality our degree programs will adopt for the many thousands of international students who are at Northeastern University or preparing to enroll. Just weeks before the start of the fall term, the university must certify which form of instruction will be used: online only, hybrid, or in person as it existed prior to COVID-19. Northeastern, higher education institutions across the country, and our F-1 international students relied on the Student Exchange Visitor Program (SEVP) guidance published since March 2020, which clearly stated the temporary accommodations for online learning and maintenance of F-1 benefits would continue for the duration of the COVID-19 emergency.²

12. PhD students are enrolled in a research degree program wherein roughly 80 percent of the academic work they pursue for their degree is research with the remaining 20 percent performed in the classroom or through other independent learning. The research is performed at locations most conducive to achieving the best research results, mostly in research labs on campus, in graduate student office space or in the field if required by the research. Such fieldwork may include research cruises at sea to collect data from the ocean, ethnographic research in communities, or to use highly specialized and expensive equipment in collaboration with established research partners. These activities pre and post COVID-19 have been considered by the university as in-person academic engagement. Nearly all Northeastern F-1 international PhD students remained in the U.S. at the onset of the pandemic with about 5 percent outside of the country. Many of these students are outside the U.S. because their research requires them to be at a particular location, such as the physics PhD students who perform experiments at CERN, a major international collaboration that operates the largest particle physics laboratory in the world. Others left at the onset of the pandemic to be with family because they could continue their research without being on campus, or at the time

² https://www.ice.gov/sites/default/files/documents/Document/2020/Coronavirus%20Guidance_3.13.20.pdf

were traveling and unable to return due to travel restrictions and delays with visa renewals as a result of U.S. consulate and embassy closures.

Administrative Burdens and Planning Disruptions

13. The planning for COVID-19 contingency started in February 2020 by the university leadership with a broad range of contingency plans to ensure continuity of learning and research. To help Northeastern navigate the many unknowns, our planning was guided by the following core values:

- Maintaining the health and wellbeing of the Northeastern University community—and the world beyond our campuses.
- Developing reopening measures and policies that adhere to principals supporting health, safety, flexibility and sustainability.
- Ensuring the continued differentiation of our experiential learning model and use-inspired research enterprise.
- Pursuing opportunities to innovate for the future.

As public health experts continue to monitor the global spread of COVID-19, Northeastern developed an extensive set of contingency plans to prepare for possible disruptions, activating the staff and resources necessary to meet its institutional commitments, including:

- Learning continuity
- Research
- Campus operations
- Fall reopening – including an extensive group that focuses on Hybrid NUflex, student experience, building readiness, on campus and off campus housing, campus protocols, dining, and wellness wings including COVID-19 testing.

14. Northeastern's President Aoun announced on May 8 that the university intends to reopen for classroom instruction and residential student experience in the fall. All of the university's decisions have been and continue to be driven by the need to promote the health and safety of our university community.

15. Northeastern will follow the scheduled academic calendar for the fall term with the implementation across all campus locations of a hybrid learning model, called Hybrid NUflex, with the majority of classes meeting in a physical location at a scheduled time with synchronous delivery to students who may either be in a classroom or connected virtually to the class through innovative technology that allows for communication by audio, chat, and video. Hybrid NUflex is a model designed to deal with density restrictions and to provide flexibility to faculty and students. The university has invested more than \$1.5 million in a new "dynamic scheduling" web application that will effectively manage participation requirements. Students and faculty will be masked and distanced from each other in the classroom.

16. Northeastern students can expect to receive their housing assignments in late July to early August and will be assigned to single or double rooms. Northeastern is following the same housing application and selection process and the same housing accommodation request process used in past years. Northeastern has secured additional beds to allow the university to eliminate triple and quad rooms, to house our students, and to provide space for quarantine and isolation if needed. All additional housing is within walking distance and many apartments are in buildings that Northeastern has leased before. All university housing will have residential life on site to facilitate a healthy and active community life. For residences managed or leased by Northeastern, we will take additional precautions to promote cleaning and sanitation. To reduce density, move-in will be expanded to an 11-day time period.

17. Prior to the new SEVP guidance that was issued with no notice on July 6, there was no mandatory in-person requirement, and Northeastern, like other higher education institutions across

the U.S., relied on the guidance in place since March that allowed F-1 international students, whether in the U.S. or outside of the U.S., to maintaining valid F-1 status if they intend to make normal progress in their program of study without any limitation or restriction for participating in online and remote instruction for the duration of the COVID-19 emergency. This sudden change in policy caused an extraordinary amount of confusion and high anxiety for many F-1 international students, their families, and Northeastern's faculty and staff. The federal government's announcement ignores the existence of the global pandemic, the limitations it has imposed, and the continuing necessity of the temporary emergency protections allowing F-1 international students the flexibility to engage in remote learning; these protections are still critical for the health, safety and well-being of these students and our entire community. In essence, the federal government is forcing institutions of higher education to implement in-person requirements and to reopen with no notice and consideration of the careful planning, action steps, and investments made in collaboration with local officials and experts over the past several months.

18. Northeastern will need to immediately conduct a review of over 13,000 F-1 international student records to determine online enrollment from outside the U.S. versus enrollment in Hybrid NUflex classes from inside the U.S. before reissuing I-20s with the new information mandated by the July 6 SEVP fall directive. This is an extremely cumbersome, manual time-consuming task that is duplicative. Even at a minimum of 30 minutes per student record, this would take a total of 195,000 administrative hours to comply during a highly intensive time period as universities countdown to the start of the fall term. It is important to note that typically the issuance of fall term I-20s takes place between February and July. Therefore, the federal government has created an unprecedented burden that has to be met in an unrealistic timeframe by requiring that universities complete six months of work within three weeks. This will cost Northeastern over \$1 million in temporary staffing, as well as potential compliance and regulatory risk based upon possible inaccuracies that may occur during this rushed timeframe.

19. F-1 international students are at risk of being denied student visas because U.S. embassies and consulates are asking for updated I-20s even though the directive allows schools until August 1 to fulfil this requirement. The [Office of Global Services](#) at Northeastern is inundated with inquiries from panicked students and families, while having to identify an immediate course of action to try to comply with this new mandate and maintain seamless services for all. Northeastern has reported its temporary procedural adaptation to SEVP as required since March 2020. In the same manner, higher education institutions should be permitted to provide this certification at the institutional level without requiring the reproduction of individual student I-20s and causing widespread panic, uncertainty and confusion with new and continuing F-1 international students and their families, university faculty and staff, and government officials at U.S. consulates and embassies abroad and at all ports of entry to the U.S., who are responsible for implementing and make determinations on an F-1 international student's eligibility for F-1 visa or admission to the U.S.

Harm to F-1 International Students and the U.S. Higher Education and Research Community

20. International students who are currently outside of the U.S. are left with no real choice in pursuing their academic trajectory in the absence of definitive guidance from SEVP on the impact to their F-1 immigration status. To date, travel restrictions remain in place, availability of air travel is very limited, and U.S. consulates and embassies abroad have not announced any plans for reopening or accommodations for visa processing, while the global COVID-19 pandemic continues to rise in many locations across the globe. Many of our F-1 international students are under tremendous financial stress that they could not have anticipated – with commitments to housing, student loans and other personal family circumstances as a result of the ongoing global pandemic. International students come to the U.S. for a holistic learning experiences both inside and outside the classroom that is for the length of their degree program. Constant changes in immigration policies

make it unreasonable for F-1 international students to fulfill their educational goals. We note that many international students and families invest their entire life savings, put their lives on hold, and/or further burden themselves with educational loans, and are now on the brink of being disheartened weeks before the start of the academic year.

21. International students choose the U.S. as their desired study destination among a growing list of competing study destinations, including Canada, the United Kingdom and Australia, because of the educational experience during an academic program and the availability of post-work study rights in the U.S. Drastic changes to the F-1 student immigration category will cause devastating impact on the U.S. economy because it will curtail global investments and the availability of talent. As a result of this change in SEVP policy and due to the precedent and compounding impact of unpredictable changes in immigration policy by the federal government without notice, we forecast at least 1,000 new undergraduate and graduate students may disenroll and at least 1,000 new students may decide to defer to a future term. This also affects the enrollment and retention of our continuing F-1 international students who have travelled abroad due to pandemic. Northeastern expects about 125 new F-1 international PhD students to enroll as new students this fall. These incoming students are currently trying to manage a decision plagued with uncertainty in their funding, status of visa appointments, and travel plans.

22. Northeastern's research enterprise is supported by a cadre of faculty, staff and students, including PhD students who pursue one of the university's 34 different PhD programs. These more than 1,500 PhD students—55 percent of whom are international—are integral to the university's research mission. The university also engages between 150 and 200 postdoctoral research associates (PostDocs) each year. These individuals are considered to be trainees mentored by faculty who, in turn, rely on these trainees to support their research progress. The highest quality research depends on individuals who come from diverse and global backgrounds, both in knowledge and perspectives. Narrowing the diversity of the individuals who perform the research limits the

ultimate quality and impact of research results. Preventing 50 percent of the research trainee population from participating in Northeastern's research enterprise severely limits research productivity and future research potential.

23. The information that follows are some examples of the impacts of the new SEVP directive shared by Northeastern's F-1 international student community:

- The return of an F-1 undergraduate student, who had to urgently leave the U.S. for medical treatment and to see parents and family in the spring, is now in limbo because of travel limitations and uncertainty as a result of the new policy announcement regarding eligibility to study online from their home country while maintaining F-1 immigration status.
- An F-1 graduate student had to urgently leave the U.S. due to the unexpected demise of their father. They are unable to return to the U.S. due to travel restrictions and they are concerned about the uncertainty regarding eligibility to study online from their home country without impacting their post-completion practical training benefits.
- An F-1 undergraduate student from China, who has invested in their education for 4 years with the intention of completing their degree program and global experience, is now suddenly left confused and concerned about their safety and the disruption of their education as a result of SEVP's new directive in not allowing online only instruction during an evolving global pandemic. Stress and uncertainty about the upcoming academic year has created high anxiety due to the possibility that they would be forced out of the country if there is a rise in the COVID-19 pandemic with no regard for their safety or options for educational continuity.

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

Executed this 11th day of July, 2020

A handwritten signature in black ink, appearing to read "Kenneth W. Henderson", written in a cursive style.

Kenneth W. Henderson
Chancellor and Senior Vice President for Learning
Northeastern University