

EXH. 30
DECL. OF J. MICHAEL GOWER
(RUTGERS 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 J. MICHAEL GOWER

I, J. Michael Gower, pursuant to 28 U.S.C. § 1746, hereby declare and affirm,

1. I am the Executive Vice President for Finance and Administration and University Treasurer at Rutgers, The State University of New Jersey (“Rutgers”), with my main office located in New Brunswick, New Jersey. My educational background includes a Bachelor of Arts and a Master’s in Business Administration from Duke University. I have been employed as the chief financial officer at Rutgers since September 30, 2013.

2. I submit this declaration in support of New Jersey’s litigation challenging the policies announced on July 6, 2020 by “Broadcast Message” from Immigration and Customs Enforcement (“ICE”) 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 University personnel who have assisted me in gathering this information from our institution. I have also familiarized myself with the Rule to understand its immediate impact on our University.

Background on Rutgers University and International Student Population

4. Rutgers is a leading national research university and the State of New Jersey's preeminent, comprehensive public institution of higher education. Established in 1766, the University is the eighth oldest institution of higher education in the United States. More than 71,000 students and 23,600 full- and part-time faculty and staff learn, work, and serve the public at Rutgers locations across New Jersey and around the world.

5. Rutgers is an instrumentality of the State of New Jersey with independent governing boards. Historically, the Board of Trustees was the governing body of Rutgers University from the time of its founding as Queen's College in 1766 until the University was reorganized under Chapter 61, Laws of 1956. The 1956 state law created a Board of Governors as the governing body of the University. The Board of Governors has general supervision over the conduct of the University and is responsible for determining the programs and degree levels offered by the University. The 1956 law also provided for the continuation of the Board of Trustees in an advisory capacity, with certain fiduciary responsibilities over assets of the University in existence before 1956.

6. The Board of Governors is composed of 15 voting members. The president of the University is an ex officio, nonvoting member. Two faculty and one student are elected by the University Senate as nonvoting representatives. Of the 15 voting members, eight are appointed by the governor of New Jersey with confirmation by the New Jersey State Senate, and seven are elected by and from the Board of Trustees.

7. The Board of Trustees is composed of 41 voting members. The president of the university is an ex officio, nonvoting member. Two faculty and two students are elected by the University Senate as nonvoting representatives. The 41 voting members are chosen in the

following way as mandated by state law: 20 charter members (of whom at least three shall be women), 16 alumni members nominated by the Nominating Committee of the Board of Trustees, and five public members appointed by the governor of New Jersey with confirmation by the New Jersey State Senate. Of the 20 charter seats, three are reserved for students with full voting rights.

8. The Board of Governors presents an annual request for State support of the University to the New Jersey Department of the Treasury, and the State covers a portion of Rutgers' operating budget. However, any debt issued by Rutgers is not backed by the State of New Jersey, and Rutgers' debt is rated separately from the State. Appropriations from the State of New Jersey for fiscal year 2019 (\$350,425,000) and fringe benefits of Rutgers employees paid by the State of New Jersey in fiscal year 2019 (\$447,196,000) accounted for approximately 20% of the University's total revenue. The percentage of State support to the University's operating budget/revenues has gradually decreased over the past decades. Other sources of revenue in fiscal year 2019 included, without limitation, tuition and fees (about 30% of Rutgers' revenue), patient care services (about 20%), sponsored research (about 13%), auxiliary revenue from housing and dining operations (about 7%), and contributions and other sources comprise the remaining sources of revenue.

9. Rutgers University fuels New Jersey's economy as a leading research institution that generates \$5.2 billion in economic activity annually and educates, employs, and provides health care services to tens of thousands a year, according to an economic impact report issued by the University in 2017

(<https://ucmweb.rutgers.edu/ebook/economicimpact2017/html5forpc.html?page=0>). The

economic snapshot notes that for every \$1 of state funds received by Rutgers, the University returned nearly \$7 in economic activity.

10. Rutgers is composed of eight physical campuses constituting 29 schools and colleges, over 50,000 undergraduate students, and nearly 20,000 graduate students. Its 71,000+ students come from all 50 states and over 125 countries. Fifty-four percent of students are women and 46 percent are men. It is home to 300 research centers and institutes and boasts more than 500,000 alumni worldwide. Rutgers offers over 150 undergraduate majors and more than 400 graduate programs. It also offers over 180 study abroad programs in over 60 countries. Its eight campuses are located in three different regions of the State: Newark, New Brunswick/Piscataway, and Camden. Rutgers' New Brunswick campuses are home to more than 50,000 students, including students enrolled in programs in Rutgers Biomedical and Health Sciences (which includes the University's two medical schools, the dental school, the school of pharmacy, a school of nursing, the school of health related professions, and other units). Rutgers' Newark campus hosts over 13,000 students annually and Rutgers's Camden Campus hosts over 7,000 students annually.

11. Regarding international students, Rutgers estimates there are currently approximately 5,961 total international students at Rutgers overall (*i.e.*, from all of Rutgers various campuses and schools/programs statewide). Rutgers estimates that between 2,070 and 3,890 of our international students are currently in the U.S.

Rutgers Response to the COVID-19 Pandemic

12. In response to the COVID-19 global pandemic, nearly all countries in the world implemented an unprecedented range of actions to help control the transfer of the coronavirus. In an effort to protect everyone's health and wellbeing, Rutgers implemented several changes in

the way it conducted operations during the spring 2020 semester, just after the March 2020 spring break ended. In short, Rutgers quickly pivoted from in-person to remote instruction without any diminution in the quality of a Rutgers education. In addition, Rutgers required virtually all students living in Rutgers residence halls to vacate with limited exceptions for students who were unable to travel home or with extenuating circumstances.

13. After careful consideration of all possible models for safely and effectively delivering instruction during the ongoing coronavirus pandemic, Rutgers is planning for a fall 2020 semester that will combine a majority of remotely delivered courses with a limited number of in-person classes. Most courses this fall will have to rely on remote methods of instruction—delivered both in real-time and asynchronously. While the majority of our courses must be delivered remotely, a limited number of courses that benefit from direct access to campus facilities will happen in-person, with appropriate health-related precautions: some examples include select courses in the arts, laboratory or field work, and clinical instruction.

Harm to Rutgers University if the Rule is Actualized and Enforced

14. The Rule will certainly cause harm to Rutgers. The loss of tuition and associated fees from international students who would not be able to remain in the United States and take courses with Rutgers pursuant to the Rule because none of their courses would be “in person” will result in a direct financial harm to the University. Specifically, in rough numbers, Rutgers could lose approximately 2/3 of its nearly 6,000 international students this year on the reasonable calculation that in-person instruction is neither realistic nor envisioned for any more than that given the myriad programs of study they follow and the announcement that most classes at Rutgers will be remote this fall. Given each student was paying approximately \$50,000 to Rutgers, the financial loss could be as high as \$200,000,000 in the 2020-2021 academic year

alone. And this implies we could creatively find a way to retain the remaining 2,000 international students. Additionally, the long-term financial impact on international student attendance could be disastrous, as students may find more welcoming options in other parts of the world.

15. The expected significant decrease in enrollment of international students is particularly troubling because international students pay full out-of-state tuition. The loss of their tuition dollars, along with parallel lost revenue from housing, dining, and student fees, will negatively impact the financial aid resources and educational services that we offer to New Jersey residents at Rutgers. Rutgers would have to offer less to our students and could be forced to lay off a significant number of our faculty and staff because of lost revenue.

16. The harm to the University if the Rule is implemented is not only financial. The Rule would require students to withdraw from the University, which will bear negatively on student retention rates, graduation rates, and the University's rankings. The inevitable decreases harm not only the University's reputation but also the reputation of higher education in the United States generally.

17. Moreover, international students are an integral part of the fabric of Rutgers University. They contribute tremendously to Rutgers's diversity and inclusion mission, cross-cultural and global learning, our financial bottom-line, our academic and research standing in the U.S. and globally. Although the cost to most international students and their families to come to Rutgers is approximately \$50,000 per year per student (including tuition, room, board, fees) for an undergraduate student (somewhat more for a master's student and less for a PhD student on a fellowship or assistantship), applications from international students continue to rise because of the excellent academic system and opportunities that a Rutgers education offers them. The Rule

arbitrarily and greatly damages Rutgers' promise to deliver world-class education to students. The Rule threatens Rutgers' ability to positively impact the lives of our community, both on a local as well as a global scale, which is central to our institutional mission of public service. The impact will be severe and long-term in terms of reputational and ranking loss, our mission of diversity and inclusion, the diminished numbers of international students we attract and retain, and the very significant revenue loss coupled with the decrease of international students. All of these inevitable results will also further damage the education and services Rutgers offers to the students in New Jersey and other American students as well.

18. Since international students are prohibited from working off-campus without work authorization, many of them seek and hold jobs on-campus. International students also contribute significantly to our research and teaching enterprise. Whether they are working as teaching or research assistants, proctors, or peer leaders, international students play a significant part in the campus's daily operations. Losing their contributions as on-campus workers would negatively affect the operational costs of our institution, as well as place a burden on the faculty and staff who rely on their work.

19. In addition, a decrease in enrollment of graduate students with F-1 visas will cause a loss of their direct research contribution (in addition to the loss of the contribution of research assistants noted above), which will hinder the University's research and development progress.

20. The loss of international students due to disenrollment will decrease the diversity benefits of a Rutgers education. International students significantly add to the intellectual, cultural, ethnic, and lingual diversity of Rutgers. This diversity better prepares all students (domestic and international) for the global workforce. International students add to the vibrancy

of the student body and encourage the notion and importance of a global society. Without the presence of these students, the friendships, social support networks, and education from these intercultural interactions, for all Rutgers students, both within the classroom and outside of it, would be lessened.

21. If Rutgers were to add more in-person courses in an attempt retain our international students and comply with the Rule, the University will have to expend significant additional time and resources while already in the midst of a financial emergency resulting from the COVID-19 pandemic. These costs would include but are not limited to instruction costs per student, per section, as well as costs affiliated with protecting the campus community from further COVID-19 spread (*e.g.*, additional personal protective equipment and cleaning supplies). More important than the financial cost, however, is the potential health impact if the campus opens too quickly.

22. Another specific example of harm to an academic program relates to the “Rutgers English Language Institute” (RELI), which enrolls up to fifty students each semester. The Rule precludes English language programs from offering hybrid courses; the choice is limited to a fully face-to-face program or no program at all. This lack of flexibility would place an additional undue burden on students enrolled in the English language program at RELI. If the University were to make the decision to not offer fully face-to-face programs during the fall semester, RELI would not be permitted to run the English language program. If Rutgers were to allow RELI to function at full capacity (in live classroom mode), RELI would be required to run smaller classes to accommodate social distancing requirements. This would result increased operational costs, including costs associated with hiring additional faculty, procuring PPE for faculty and staff, and sanitizing shared spaces. If RELI cannot offer fully face-to-face

instruction, students will have no choice but to transfer to another language program or return home, disrupting their academic progress. Students choose RELI for its academic excellence in English language instruction and its affiliation with Rutgers University. Forcing students to transfer or return home will adversely affect RELI's reputation. Remaining in the United States is especially important for English language learners, as living in an English-speaking community provides additional opportunities for students to practice skills they have learned in class through authentic interactions outside of the classroom. Forcing students to return to their home countries will further disrupt their progress in English language acquisition.

Harm to Rutgers Students if the Rule is Actualized and Enforced

23. The Rule will cause educational, personal, and financial harm to Rutgers students. As noted above, Rutgers currently has approximately 5,961 enrolled students from over 125 countries who have F-1 visas.

24. The Rule will cause educational harm to these F-1 students due to the infeasibility or impossibility of effectuating a transfer to an institution that offers an in-person curriculum. This is even more problematic for graduate students who, because of their educational progression into specialized degree programs, may not be able to find comparable programs at other universities or where transferring at a graduate level is simply not feasible. Without such a transfer, they may be unable to pursue their education within the United States on an F-1 visa. Many students will therefore be forced to leave the country. They will also risk losing their ability to access work allowances because of the requirement that students maintain F-1 status for the full academic year preceding their access to optional practical training (OPT). This will significantly disrupt those students' educational and career plans and opportunities. Additionally, English language skills gained by affected students may be lost as a result of

leaving the country. All of these educational consequences will likely result in the students withdrawing from their programs.

25. Even if our international students could return to their home countries (despite all the current travel restrictions and disrupted airline travel) and wished to continue with their Rutgers education remotely, some of our remote classes are offered synchronously "live" at a specific time during the day. Given the different time zones, learning is so much more efficient if students are in the same time zone rather than, for example, being forced to wake up in the middle of their night to attend a remote but live class. Therefore, even for remote learning, students would prefer to remain in the United States rather than return to their home countries.

26. The Rule will also cause personal harm to the affected students. Both domestic and international students' personal health and safety could be put at risk by mandated in-person learning. Requiring such in-person learning places both resident and international students at increased risk of contracting COVID-19. Additionally, affected students may be unable to leave the United States safely as travel may be restricted, or the impact of the pandemic may be worse in their home country. Affected students may be required to uproot entire families as a result of the requirement that the students depart the country.

27. In addition, students will suffer financial harm as a result of the Rule. The loss of their visa status and cost of reapplication will be substantial. As a result of the sudden displacement, the affected students will incur travel expenses, expenses related to breaking housing agreements in the United States, and expenses related to obtaining housing in their countries. The pandemic has dramatically impacted the availability and cost of travel, and students will be forced to bear these costs.

28. If continuing students with F-1 visas enrolled in a hybrid program are currently outside of the United States and cannot return because of travel restrictions or an inability to get an F-1 visa because of the suspension of consular processing of visa applications, these students will lose their F-1 visa status. In turn, these students would lose their ability to pursue pre-completion internship and experiential learning opportunities, as well as their eligibility for work allowances.

29. The following testimonials illustrate the burden on our international students.

International Student 1: I am an international student who has been staying in the United States for the past 13 years. Since I have not received a green card yet, my "home country" is still considered to be New Zealand, even though I left the country when I was 7. I have no family in New Zealand. In contrast to other internationals, they have a family to go back to if the worst-case scenario does happen. I do not have that option as my parents live in the US. Along with my family being on opposite sides of the world if I have to leave, the time difference would be impossible to manage as New Zealand is 16 hours ahead of Eastern standard time. If there is an online class that is administered between 12 and 1 pm eastern time for example, I would have to come online at 4 am New Zealand time which is very unfair. Many of the online classes I have taken this semester are between 8 am and 12 am so that would mean if I were in New Zealand, my classes would be between 1 am and 4 am. Along with that, I am not even sure if New Zealand would allow me to enter the country since New Zealand has one of the lowest rates of Covid 19 and the United States has one of the highest rates. So, based on the fact that I'm from the U.S., they could reject me from entering since I am living in a country that still has not adequately controlled the virus. I understand that the law states that an international student cannot take more than one online class per semester, but we are in a situation that we never thought we would be in. This action is forcing students like me, who are legally studying here, to choose between continuing our education or leaving ourselves and our family in danger of contracting a deadly virus by attending classes in person. This is really unfair and is not what I thought the United States of America stands for.

International Student 2: I am heavily affected by this ridiculous situation. I've been here for around eight years. However, the process of getting a green card sometimes takes a long time. Unfortunately, I didn't get it, so I had to change my visa to the F-1 visa when I turned 21. My family lives here and if I were to go back to India, I wouldn't know how to function properly cause I don't even know the native language (I used to live in Dubai and know English only). This would mean delaying my degree and increasing the crippling debt I have. This

rule is unfair as international students help to fund school due to payments of high tuitions. In addition to that, I even lost an internship at PwC due to the covid-19. Gaining an internship already has complications due to the visa and now this new rule makes everything harder for students. Plus, the opportunities provided in India are very much different compared to the ones in the US.

International Student 3: I booked my flight back to India in March and booked a return ticket for May which got cancelled. It got rescheduled for June, then July and now August and in meanwhile ICE imposed this new rule. So, unless we have a new i-20 we cannot travel If I cannot enter the country in August, my semester will be deferred which will have an impact on future job opportunities. The same story goes for all the students like me stuck in India. And many of us are left with only one semester left to finish before graduation.

30. The following testimonials from U.S. resident students illustrate the value of international students at Rutgers:

Student 1: International students make up a large amount of the upper level CS classes that we get the opportunity to be in group projects with and learn from. Also, a majority of them are TAs that help out so much when we are struggling in classes. Having worked with a lot of international students and seeing them be far more adept at coding and I think they add a lot to the work culture that citizens don't, especially millennials.

Student 2: Having a community of native students and international students is an opportunity to exchange knowledge and gives rise to a multi-faceted society.

Student 3: Studying and working alongside international students provides the opportunity to learn from their journeys and bond over similar interests.

Student 4: What I've gotten from international students is being inspired by their work ethic and their willingness to learn and try new things.

Student 5: First of all, this new policy is entirely bogus. This country and this university have greatly benefited from the cultural exchange that is facilitated by international students. These are highly motivated and highly productive individuals that come to this country to secure a brighter future for not only themselves, but for their families and their native communities. The way international students face adversity, uncertainty and the blatant message that they are no longer welcome here all while remaining dedicated to their education and their future is something most Americans could never imagine or handle. The truth is it shouldn't be this emotionally, financially and physically taxing to get an education and job opportunities in this country. This broken system is trying to break the resolve of international students but we as a community must come together in solidarity.

Harm to the State of New Jersey if the Rule is Actualized and Enforced

31. Not only will the Rule cause Rutgers to lose revenue, it will cause harm to the state of New Jersey and three of its key metropolitan areas (Newark, New Brunswick, Camden). Rutgers is a top destination for international students in the state of New Jersey. The inability of international students in New Jersey to maintain their visa status will eliminate their contributions to the state's economy resulting in lost revenue to the state. NAFSA estimates that international students contribute over \$823,000,000 to the state's economy, which supports nearly 10,000 jobs. See <https://www.nafsa.org/isev/reports/state?year=2018&state=NJ>.

32. Many international students live off-campus. The requirement that they leave the country will also likely harm the economy by resulting in broken lease agreements and loss of rental income to New Jersey landlords. In addition to being a benefit to local real estate through the rental agreements that they enter into, Rutgers' international students invest in local transportation and frequent the restaurants and commercial establishments in and surrounding our campuses. Without the added revenue and patronage of our international students, the local economies of our host municipalities would sustain losses.

33. International students who are near completion of their studies will not have the opportunity to engage in a year or more of OPT. Many international students have made the decision to attend Rutgers for the opportunity to obtain positions at major employers and corporations in our host municipalities. These companies and organizations would not be able to utilize the significant talents and expertise that our international students bring to the workforce if they were not able to complete their studies at Rutgers.

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 that reads "J. Michael Gower". The signature is written in a cursive style with a horizontal line underneath it.

J. Michael Gower
Executive Vice President for Finance and Administration
and University Treasurer
Rutgers, The State University of New Jersey