

**EXH. 31**  
**DECL. OF MARY R. JEKA**  
**(TUFTS 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 TUFTS UNIVERSITY**

I, Mary R. Jeka, pursuant to 28 U.S.C. § 1746, hereby declare and affirm,

1. I am the Senior Vice President and General Counsel at Tufts University (“Tufts” or the “University”) located in Massachusetts. I have been employed at Tufts since 2003.

2. I submit this declaration in support of the Commonwealth’s 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 through colleagues who assisted me in gathering this information from Tufts’ many campuses and schools. I have also familiarized myself with the Rule in order to understand its immediate impact on the University and our students.

### **Background on Tufts University and International Students**

4. The Trustees of Tufts College, known to the public as Tufts University, is a nonprofit institution of higher education in Massachusetts. Tufts University was granted a Charter in 1852 and first opened in 1855. Today, Tufts has four campuses located in Medford, Somerville, Boston and Grafton and is comprised of nine schools and a college: the School of Arts & Sciences, the School of Engineering, the School of the Museum of Fine Arts, the School of Medicine, the School of Graduate Biomedical Sciences, the School of Dental Medicine, the Friedman School of Nutrition Sciences and Policy, the Fletcher School, a graduate school of international affairs, the Cummings School of Veterinary Medicine and the Jonathan M. Tisch College of Civic Life.

5. Tufts enrolls approximately 11,500 students across its many undergraduate, graduate, and professional schools. Tufts employs more than 5,000 people, including 1,500 full- and part-time faculty who teach in over 250 degree programs.

6. Tufts' mission, as adopted by the Board of Trustees in 2013, is to be a "student-centered research university dedicated to the education and application of knowledge, committed to providing transformational experiences for students and faculty in an inclusive and collaborative environment where creative scholars generate bold ideas, innovate in the face of complex challenges, and distinguish themselves as active citizens of the world."

7. In support of that mission, Tufts welcomes international students to its campuses from more than 100 countries around the world. Tufts currently has 1,460 enrolled students who have F-1 visas. These students come from more than 100 different countries and contribute substantial resources – academic, personal and financial – to Tufts each year.

8. Tufts estimates that more than half of its students with F-1 visas (out of a total of 1,460) are currently residing in the United States.

9. In addition to its existing F-1 visa holders (which total 1,460 students) Tufts will add 700 newly admitted students for enrollment in fall 2020, who will also require F-1 visas. Of these students, 192 are currently in the United States and 515 are currently living outside the United States and will require a visa to enter the country for study.

10. Tufts University is fortunate to have an International Center (the "I-Center") dedicated to assisting and supporting all of Tufts' international students, scholars and employees in their efforts to realize their academic and educational goals. The I-Center is led by Director, Andrew Shiotani, and eight staffers.

### **Economic Harm**

11. It is impossible to know exactly how many international students will unenroll from Tufts as a result of the Rule, but based on the preliminary reaction from Tufts international students, we are modeling an estimated 10% reduction in enrollment for in-person and hybrid programs and a 100% loss for online-only instruction across the University.

12. Based on these attrition assumptions, the total estimated tuition and revenue loss is \$10 million for the fall 2020 semester. Not surprisingly, the Fletcher School, which offers graduate-level courses in international affairs and draws students from around the world, stands to lose more revenue than other schools with estimated losses of \$3 million for the fall 2020 semester attributable to this rule. Some of the professional schools will also be disproportionately impacted because students who miss the fall 2020 semester may be unable to enroll in spring 2021 due to curriculum sequencing and clinic schedules.

13. The current restrictions were introduced at a time when Tufts, like many colleges and universities, was already struggling with the significant and ongoing costs caused by the COVID-19 pandemic. The Rule threatens to disrupt carefully calibrated campus reopening plans, and to incentivize colleges and universities to require more in-person and on-campus activities at precisely the same time that the number of cases of COVID infection is increasing nationally.

### **Administrative Burdens and Planning Disruptions**

14. On March 13, 2020, United States Immigration and Customs Enforcement (“ICE”) issued an “exemption” to a preexisting rule that students on F-1 visas must attend most classes in person. Due to the COVID-19 pandemic, ICE permitted international students to

attend online classes while retaining their visa status and made clear that its exemption would remain “in effect for the duration of the emergency.”<sup>1</sup>

15. On March 25, 2020, Tufts transitioned to online instruction for all students. Tufts filed operational plans as required with the Department of Homeland Security describing its response to COVID-19. Three operational plans were submitted for our F-1 federally certified programs. Measures taken include transitioning virtually all classes to on-line instruction (with exceptions for a very limited number of activities taking place in clinical or laboratory research settings), de-densifying the campus by requiring on-campus residential students to leave campus (many to their homes outside the U.S.) to participate in on-line instruction, and repatriating almost all study abroad students back to the U.S. or their home countries. In addition, in preparing our operational plans, the individual schools in collaboration with the International Center conducted exhaustive audits of all courses to certify their continuation in an on-line format.

16. At the same time, in partnership with local health-care providers and its host communities, Tufts made its residence halls available to house medical personal, police and firefighters and patients, including those recovering from COVID-19. Tufts offered assistance to local area hospitals as they prepared for a surge of cases that threatened to overwhelm their peak capacity and, in an op-ed published in the Boston Globe, Tufts President Anthony P. Monaco encouraged other institutions to do the same.<sup>2</sup>

17. Even with these unprecedented emergency response efforts underway, Tufts was already beginning to plan for the fall 2020 semester. President Monaco served on the

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<sup>1</sup> [https://www.ice.gov/sites/default/files/documents/Document/2020/Coronavirus%20Guidance\\_3.13.20.pdf](https://www.ice.gov/sites/default/files/documents/Document/2020/Coronavirus%20Guidance_3.13.20.pdf)

<sup>2</sup> <https://www.bostonglobe.com/2020/03/18/opinion/higher-educations-role-fighting-covid-19/>

Massachusetts Higher Education Working Group<sup>3</sup>, which Governor Baker convened to develop a plan for reopening colleges and universities in Massachusetts. The group outlined the critically important role higher education plays in the strength of our economy and the vitality of our communities.

18. The Massachusetts Education Working Group proposed a framework for safely reopening institutions (the “Framework”):

- a. Phase 1: Start. Repopulate Research Labs, Medical, Dental, Veterinary & Allied Health Clinical Education and Services. Repopulated Limited Functions Necessary for Students to Return.
- b. Phase 2: Cautious. Relaunch/Pilot Limited Student Programming on Campus.
- c. Phase 3 Vigilant. Opening: Carefully Repopulate Resident Halls, Dining Halls, Classrooms.
- d. Phase 4: New Normal. New Normal Operations on College and University Campuses.

19. After careful planning, and consistent with the Framework outlined above, Tufts concluded that it would offer its fall 2020 curricula in a variety of different modalities – including in-person, online and hybrid formats. Tufts reached this multifaceted solution to account for variations in campus configuration (urban, suburban, rural), programmatic requirements (didactic versus clinical) and students’ own learning needs (highly individualized).

20. Accordingly, each school developed a plan for the fall 2020 semester that best suited its academic goals and operational needs. In many cases, schools were able to provide students the flexibility to choose their own modality. For example, within the Schools of Arts and Sciences and Engineering, students can decide whether they wished to participate remotely or in-person for the fall semester. And while orientation and move-in schedules have been

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<sup>3</sup> <https://www.mass.edu/covid-19/documents/2020-05-22%20Higher%20Ed%20Framework%20Briefing%20to%20RAB.pdf>

modified to encourage social distancing and other infection-control protocols, the academic calendar for the Schools of Arts and Sciences and Engineering remains unchanged.

Undergraduate students were given until July 7, 2020, to make their enrollment decisions; graduate students were given until July 10, 2020. By the time ICE issued its new guidance on July 6, 2020, many international students had already made, or were on the cusp of making, those decisions.

21. Other schools at Tufts took other approaches. The Fletcher School, which was founded as America's first graduate school of international affairs in 1933, announced in June that it would offer all of its fall 2020 courses remotely. The Fletcher School also decided to break the fall 2020 semester into two sessions, create a new academic calendar and offer additional course options. These changes were designed to accommodate the Fletcher School's global student body, with dedicated time blocks so that students on different continents could take classes in workable time zones. F-1 visa holders account for nearly 40% of the Fletcher School student body. The new Rule undermines the Fletcher School's deliberate choices to preserve academic continuity and access for all students.

22. By contrast, the Schools of Medicine, Dental Medicine and Veterinary Medicine will offer a hybrid format of in-person clinic experiences, remote didactic instruction and virtual anatomy lessons. The modalities offered will depend in part on the degree program and class year of each student, and so will be highly variable within each school.

23. Tufts is adapting to what is arguably the greatest academic and operational transition in the school's 168-year history. The next several weeks are critical to the successful implementation of months-long planning efforts to repopulate the campus, resume instruction and mitigate the spread of COVID-19.



24. No amount of preparation could have readied the International Center staff for the new Rule. They have devoted their full attention to responding to students' urgent immigration inquiries, counseling deans on how the new Rule is likely to suppress international enrollment, and hosting multiple town halls to answer questions for which the new Rule offers no guidance (e.g., what if a student with an F-1 visa is enrolled in an online-only program and needs to leave the United States to comply with the Rule, but their home country is not accepting travelers from the U.S.?).

25. Tufts does not yet know how it will meet the administrative burden of recertifying nearly 1,500 Form I-20s by August, let alone submitting operational plans by next Wednesday, July 15, 2020. To contextualize the breadth of this undertaking, Tufts reiterates that each of its ten schools has developed its own approach to delivering curricula for the fall 2020 semester. Beyond needing to specify those operational change plans, we note that many schools have given students the flexibility to choose between in-person and remote learning and that many students are still in the process of making those elections. In short, complying with the new Rule will require a school-by-school, program-by-program, student-by-student and course-by-course level of individualized review.

26. Tufts is unable to estimate the number of staff hours this project will entail because, in the history of the college, Tufts has not encountered a compliance obligation of this magnitude that was to be executed within such a compressed timeframe.

### **Educational Mission**

27. Anecdotally, we know that more than half of our international students chose to remain in the U.S. for a variety of reasons, including to maximize their access to Tufts' resources (physical and remote), and to engage in U.S.-based internships and other professional and

research opportunities. Tufts students made these difficult and life-altering decisions in reliance on earlier ICE guidance promising that the in-person requirements would be lifted “for the duration of the [COVID-19] emergency.” Tufts shared this guidance with all F-1 visa holders so that they could make informed decisions regarding their plans for the fall 2020 semester. Many students chose to stay in the U.S. because they were concerned that if they left, they would not be able to return to campus to continue to pursue their degree if in-person classes resumed in the fall.

28. Tufts’ international student community was already facing a challenging fall 2020 semester with interruptions in consular processing services for visa applicants and numerous travel restrictions related to the COVID-19 pandemic. The hurdles international students overcome to study at U.S. institutions were significantly exacerbated by the global pandemic. This sudden shift in immigration policy, just weeks prior to the start of the fall 2020 semester, places undue strain on international students and the institutions that serve them.

### **Health of Students, University Community, and the Public**

29. Tufts conducted a COVID-19 Mental Health Needs Assessment Survey in June 2020, and while the results are not specifically broken down or attributable to our international students, we can see that students are experiencing increased stress as a result of the COVID-19 pandemic across several common categories including: (i) lost opportunities; (ii) academic concerns, (iii) isolation and loneliness; (iv) health concerns for themselves or families members; and (v) financial hardships.

30. Tufts believes these stressors to be present for international students in equal, and likely greater measure. Tufts has already heard from multiple international students that their

anxiety level has increased dramatically because of the new Rule and the cascade of uncertainties it creates for their futures.

### **Economic Harm to Students**

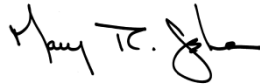
31. Even those international students who decide to stay at Tufts and participate in hybrid and in-person course offerings this fall, risk losing their immigration status in the event that Tufts has to close its campuses again due to the pandemic. In that scenario, students will be forced to leave the United States mid-semester, repeating and reliving the same disruptions they experienced last spring, which cost Tufts approximately \$50,000 in airline tickets and \$100,000 in summer housing expense. Tufts also maintains an emergency fund that has expended an additional \$100,000 since May 15, 2020, to help pay for travel, housing, internet access and other COVID-related expenses for international students facing financial hardship.

32. More than half of students who responded to the COVID-19 Mental Health Needs Assessment Survey reported that they wanted help finding an internship or job. The scarcity of employment opportunities is at the forefront of students' concerns, and is especially pressing for F-1 visa holders who may lose their immigration status as a result of this new Rule.

33. We are also aware of at least some international students at Tufts who are at risk of losing their housing as a result of the new Rule. Landlords have begun to ask our students to show proof that ICE will permit them to remain in the United States throughout the term of their lease. Tufts has provided letters of support to such students in the hope that they will be able to secure housing near campus. But these inquiries are creating anxiety and frustration among students who are, in good faith, making preparations to continue their studies and remain in our communities.

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

Executed this 10th day of July, 2020

A handwritten signature in black ink, appearing to read "Mary R. Jeka". The signature is written in a cursive style with a large initial "M" and a stylized "J".

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Mary R. Jeka  
Senior Vice President and General Counsel  
Tufts University