

EXH. 40
DECL. OF DAVID CLUBB
(VIRGINIA POLYTECHNIC INSTITUTE AND STATE
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 DAVID CLUBB

I, David Clubb, pursuant to 28 U.S.C. § 1746, hereby declare and affirm,

1. I am a faculty member serving as the Director of the Cranwell International Center at the Virginia Polytechnic Institute and State University (Virginia Tech) located in Blacksburg, Virginia. My educational background includes a Master of Arts (M.A.) in Intercultural Studies, a Bachelor of Arts (B.A.) in Religious Studies, and a Master of Business Administration Essentials (MBAe) Executive Education Certificate. I have been employed as Director of the Cranwell International Center since August 1, 2015 and have been working in international higher education for 25 years at other institutions, including but not limited to Johns Hopkins University, University of Pittsburgh, University of Colorado, and Norwich University (a senior military college, like Virginia Tech, under 10 U.S.C. § 2111a(f), and America's oldest private military college).

2. I submit this declaration in support of the Commonwealth of Virginia's litigation challenging the policies announced on July 6, 2020 by "Broadcast Message"¹ 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 Virginia Tech 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 Virginia Tech.

¹ <https://www.ice.gov/doclib/sevis/pdf/bcm2007-01.pdf>

Background on Virginia Polytechnic Institute and State University and the Enrolled International Student Population

4. Virginia Tech is a doctoral and research institution in the Commonwealth of Virginia. Virginia Tech is a public corporation under the control of the Commonwealth's General Assembly, section 23.1-2600, Code of Virginia, as amended. The university offers approximately 280 undergraduate² and graduate³ majors to more than 36,000 undergraduate, graduate, and professional students across the commonwealth and manages a research portfolio of more than \$531 million. The university is one of two land-grant institutions in the Commonwealth and it fulfills this role by fostering a collaborative environment that integrates technology into all disciplines, so that the Virginia Tech community can serve as a force for positive change around the commonwealth, the country, and the world.

5. Virginia Tech has a 2,600-acre main campus⁴ in Blacksburg, Virginia; a significant presence across the commonwealth, including the Innovation Campus⁵ in Northern Virginia⁶, the Health Sciences and Technology Campus in Roanoke⁷, and sites in Newport News

² <https://vt.edu/admissions/undergraduate.html>

³ <https://graduateschool.vt.edu/admissions.html>

⁴ <https://vt.edu/about/locations/buildings.html>

⁵ <https://vt.edu/innovationcampus/index.html>

⁶ The university offers 45 graduate degree and certificate programs and has facilities in seven Northern Virginia locations. These include the [Northern Virginia Center](#) in Falls Church, the [Marion duPont Scott Equine Medical Center](#) in Leesville, the [Virginia Tech Research Center – Arlington](#) and [Advanced Research Institute](#) in Arlington, the [Washington-Alexandria Architecture Center](#) in Alexandria, the [Language and Culture Institute](#) in Fairfax, the [Occoquan Watershed Monitoring Laboratory](#) in Manassas, and the [Middleburg Agricultural Research and Extension Center](#) in Middleburg. In June 2019, Virginia Tech officials [announced plans](#) to build the university's [Innovation Campus](#), National Gateway, in Alexandria.

⁷ Roanoke is home to the [Virginia Tech Carilion School of Medicine](#) and the adjoining [Fralin Biomedical Research Institute](#). Both are part of the VTC Health Sciences and Technology Campus in the Roanoke Innovation Corridor. The city is also home to [Virginia Tech Roanoke Center](#), the [Virginia Tech Center for Organizational and Technological Advancement](#), and the [Hotel Roanoke & Conference Center](#), which is owned by the [Virginia Tech Foundation](#).

and Richmond; educational and research facilities across the state; a study-abroad site in Switzerland⁸; and a 1,800-acre agriculture research farm near the main campus. The campus proper is located in the New River Valley and is 38 miles southwest of Roanoke.

6. The university has an annual operating budget of \$1.66 billion (2019-20), \$2.1 billion in assets and managed funds (as of June 30, 2019), \$1.35 billion endowment (as of July 31, 2019), \$38,855 endowment value per student.

7. Virginia Tech employees more than 13,000 faculty, staff, and wage employees, including 2,070 instructional faculty members.

International Students Enrolled at Virginia Tech

8. Virginia Tech currently has 3,681⁹ enrolled international students in F-1 nonimmigrant visa status. These students come from 123¹⁰ countries and contribute over \$100 million¹¹ in annual revenue for tuition, fees, room, board, etc. to Virginia Tech.

9. Of these students in F-1 nonimmigrant visa status, approximately 92%¹² are currently in the United States.

⁸ <https://stegercenter.vt.edu/>

⁹ This number is based on Fall 2019 census data from Virginia Tech's Office of Analytics and Institutional Effectiveness. It does not include an additional 571 international students who completed a degree program at Virginia Tech while in F-1 nonimmigrant visa status and remain in the US in that status while engaged in post-completion Optional Practical Training (OPT) employment authorization. While international students are not formally enrolled while engaged in post-completion OPT, the university, through Cranwell International Center, is still required to maintain their records in the Department of Homeland Security's (DHS) Student and Exchange Visitor Information System (SEVIS) and has ongoing federal recordkeeping and reporting requirements with which the university must comply. In short, the university continues to serve these students and continues to be responsible for related compliance with federal regulations during the OPT period (12-36 months following degree completion).

¹⁰ This number is based on Fall 2019 census data from Virginia Tech's Office of Analytics and Institutional Effectiveness.

¹¹ This is based on the Virginia Tech's Tuition and Fees for Fall and Spring Semesters, 2020-2021 (https://www.bursar.vt.edu/content/dam/bursar_vt_edu/tuition/2020-2021tuitionfees.pdf).

¹² Based on anecdotal information gathered from Virginia Tech international students and consistent with data from a national survey conducted by the Institute of International Education that found that most international students

10. Virginia Tech has 845 newly admitted international students (401¹³ undergraduate students and 444 graduate students) for enrollment in fall 2020 who will require F-1 nonimmigrant visa status. Of these students, 154 are currently in the United States (79 undergraduate students and 75 graduate students) and 691 (322 undergraduate students and 369 graduate students) are currently living outside the United States and require a visa to enter the country for study. These students are expected to contribute approximately \$20 million¹⁴ in tuition, fees, room, board, etc. to Virginia Tech for the 2020-21 academic year.

General Impact of Broadcast Message on Virginia Tech

11. The policy modifications outlined in the Broadcast Message, which needlessly places at risk and imposes unnecessary hardship on international students who may be unable to secure required F-1 visas to enter/re-enter the US and/or who may be required to depart the United States, will do irreparable harm to Virginia Tech in terms of the loss of over \$100 million in annual revenue, the loss of teaching capacity, the loss of research capacity, and the loss of invaluable human intellectual capital.

12. The Broadcast Message deprives Virginia Tech of the flexibility necessary to make responsible decisions about reopening safely in response to the COVID-19 pandemic in

who were in the United States this spring stayed in the country. See page 6 of the full report, “COVID-19 EFFECTS ON U.S. HIGHER EDUCATION CAMPUSES: From Emergency Response to Planning for Future Student Mobility,” by Mirka Martel, Ph.D. (May 2020): <https://www.iie.org/-/media/Files/Corporate/Publications/COVID-19-Survey-2-Report-WEBSITE.ashx>.

¹³ This number includes 133 undergraduate international students who elected to engage in a special program Virginia Tech created called VTBound. The program is intended to provide international first year students who are outside of the United States and who are unable to secure a visa to facilitate their entry to the US for fall 2020 with an opportunity to begin their programs fully online from wherever they are outside of the US and then transition to in-person, on-campus for spring 2021. See <https://vt.edu/admissions/vtbound.html> for more details. If these students were able to get visas, they would start in-person, on-campus fall 2020, not spring 2021.

¹⁴ This is based on the Virginia Tech’s Tuition and Fees for Fall and Spring Semesters, 2020-2021 (https://www.bursar.vt.edu/content/dam/bursar_vt_edu/tuition/2020-2021tuitionfees.pdf).

ways consistent with our academic mission, student body, and campus and local public health environments. It is an arbitrary and capricious departure from the flexibility accorded institutions and international students in the spring when the COVID-19 outbreak began.

13. The Broadcast Message forces international students to choose between their health or potential deportation and restricts Virginia Tech's authority to make the best possible decisions for navigating the ongoing COVID-19 pandemic.

14. The Broadcast Message recklessly and unfairly places administrators who are in the midst of an unpredictable pandemic in the position of having to weigh the public health risks of returning to or maintaining in-person instruction throughout the entire fall 2020 semester against losing international students who are valued members of the Virginia Tech campus and broader community.

15. The school reporting and procedural requirements in the Broadcast Message places onerous and urgent administrative burdens on Virginia Tech, particularly as related to the Forms I-20 requirements and the maintenance of student records in the Student and Exchange Visitor Information System (SEVIS).

Economic Harm to Virginia Tech

16. If, as a result of the modifications outlined in the Broadcast Message, international students at Virginia Tech in nonimmigrant F-1 visa status are unable to secure required F-1 visas to enter/re-enter the US and/or are required to depart the United States, the university stands to lose over \$100 million¹⁵ in annual revenue for tuition, fees, room, board, etc.

¹⁵ See footnote 14.

from the 3,681¹⁶ international students who come from 123¹⁷ countries and are currently enrolled at Virginia Tech.

Administrative Burdens and Planning Disruptions

17. The harsh and inflexible mandates in the Broadcast Message, which come just weeks before the Virginia Tech campus is set to re-open, include extremely short deadlines for compliance, which interferes with operational planning for fall opening while creating confusion and complexity for the university and our international students.

18. The Broadcast Message imposes burdensome and costly administrative requirements such as the issuance of new Forms I-20 for all international students (nearly 4,000 students at Virginia Tech) by August 4, 2020 at a time when Virginia Tech is engaged in an institution-wide response to an ongoing COVID-19 pandemic.

19. The Broadcast Message needlessly interferes with and hamstring institutional decision-making at Virginia Tech regarding how to handle international students in the event that circumstances, such as a spike in COVID-19 cases, necessitate an unexpected change in operational status during the fall 2020 semester.

Impact on Educational Mission

¹⁶ This number is based on Fall 2019 census data from Virginia Tech's Office of Analytics and Institutional Effectiveness. It does not include an additional 571 international students who completed a degree program at Virginia Tech while in F-1 nonimmigrant visa status and remain in the US in that status while engaged in post-completion Optional Practical Training (OPT) employment authorization. While international students are not formally enrolled while engaged in post-completion OPT, the university, through Cranwell International Center, is still required to maintain their records in the Department of Homeland Security's (DHS) Student and Exchange Visitor Information System (SEVIS) and has ongoing federal recordkeeping and reporting requirements with which the university must comply. In short, the university continues to serve these students and continues to be responsible for related compliance with federal regulations during the OPT period (12-36 months following degree completion).

¹⁷ This number is based on Fall 2019 census data from Virginia Tech's Office of Analytics and Institutional Effectiveness.

20. The impact of the Broadcast Message on the educational mission of the university will be felt by *all* students, not just international students, and throughout the entire education and research enterprise at Virginia Tech, because international students are essential contributors to the university's teaching and research mission.

21. If international students are unable to secure required F-1 visas and/or are required to depart the United States, the harm will be especially felt in the area of graduate education at Virginia Tech. International graduate students make up nearly 30% of graduate student enrollment, with some graduate programs relying on close to or more than 50% international student enrollment.¹⁸ Without international graduate students, many of these programs, as well as other graduate programs, would not be viable.

22. The overall teaching and research mission of the university would also be in jeopardy if international students are unable to secure an F-1 visa and/or are required to depart the United States because nearly half of all Graduate Teaching Assistantships (GTA) and Graduate Research Assistantships (GRA) are filled by international graduate students. These GTAs and GRAs are need to teach undergraduate classes and to conduct research. In short, without international students (graduate international students in particular), classes may not be able to be taught and critical research that is in the national and public interest may not be able to continue.

Economic Harm to the Commonwealth of Virginia and the Nation

23. Over 1 million international students studying at US colleges and universities like Virginia Tech contribute nearly \$41 billion to the US economy and support 458,290 jobs. For every seven international students, three US jobs are created and supported by spending

¹⁸ International graduate students represent 71% of the total enrollment in graduate programs in Computer Science, 67% in Industrial and Systems Engineering, 52% in Civil Engineering, and 44% in Aerospace Engineering.

occurring in the higher education, accommodation, dining, retail, transportation, telecommunications, and health insurance sectors.¹⁹

24. Nearly 21,000 international students studying at colleges and universities in the Commonwealth of Virginia contribute \$757.9 million to the Commonwealth's economy and support 9,143 jobs. In the Commonwealth's US Congressional District 09 alone, where Virginia Tech is located, international students contribute \$164.9 million to the local economy and support 2,258 jobs.²⁰

25. The economic contributions at the national, state, and local levels of the over 1 million international students who currently attend US colleges and universities, and the nearly 4,000 international students currently attending Virginia Tech, are in addition to the immeasurable academic and cultural value these students bring to our campuses, communities, and nation²¹, which are all unnecessarily jeopardized due to the Broadcast Message.

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

Executed this 12th day of July, 2020



David Clubb

Digitally signed by David Clubb
Date: 2020.07.12
19:32:32 -04'00'

David Clubb | Director | Cranwell International Center
Virginia Tech

¹⁹ See <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2>. Tuition and living expense data, which is used to calculate the total amount of economic benefit, comes from the U.S. Department of Education's National Center of Educational Statistics Integrated Postsecondary Education Data System (IPEDS) (<http://nces.ed.gov/ipeds/datacenter/login.aspx>). Data sets used to calculate the number of jobs created or supported comes from the U.S. Department of Commerce, specifically International Trade Administration (<http://www.trade.gov/>) and Bureau of Economic Analysis (<http://www.bea.gov/>).

²⁰ See footnote 19.

²¹ Nearly one-quarter of the founders of the \$1 billion US start-up companies first came to the United States as international students (<https://nfap.com/wp-content/uploads/2018/10/2018-BILLION-DOLLAR-STARTUPS.NFAP-Policy-Brief.2018-1.pdf>).