

EXH. 8
DECL. OF DR. AONDOVER TARHULE
(ILLINOIS STATE UNIVERSITY)

**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 DR. AONDOVER TARHULE, ILLINOIS STATE UNIVERSITY

DECLARATION OF DR. AONDOVER TARHULE

I, Dr. Aondover Tarhule, pursuant to 28 U.S.C. § 1746, hereby declare and affirm,

1. I am the Vice President for Academic Affairs and Provost at Illinois State University (“University”) located in Normal, Illinois. In this role, I oversee academic activities for Illinois State University, including academic programs for undergraduate, graduate, and international students. My educational background includes a doctorate in geography from McMaster University in Hamilton, Ontario, Canada and a post-doctoral fellowship at Queens University, Ontario, Canada.

2. I was named as Vice President for Academic Affairs and Provost for Illinois State University on March 2, 2020 and officially began my appointment on July 1, 2020. Prior to assuming this role, I served as the Vice Provost and Dean of the Graduate School at Binghamton University, part of the state universities of New York. At Binghamton University, I had oversight of graduate and international programs.

3. I submit this Declaration on behalf of Illinois State University in support of Illinois’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”). I have also familiarized myself with the Rule in order to understand its immediate impact on Illinois State University.

4. Various University employees with responsibilities in the areas addressed in this Declaration have assisted me in gathering this information for the University. This Declaration includes illustrative examples to demonstrate the potential impact of this Rule on our international students and the campus population. Where feasible, Illinois State University has included estimates based on historical international student enrollment data and average costs for

tuition, housing and dining rates to illustrate the potential impact of the Rule on Illinois State University and our international student population. Currently, data concerning the fall 2020 semester remains fluid as many international students had previously left the United States to return to their home countries before the countries closed their borders. Those students were able to continue their education via online instruction, but are now limited in their options for doing so. Additionally, international students have delayed plans based on several factors including, the continuing impact of the COVID-19 pandemic, inability to secure visas to enter the United States, and now, the new Rule requirement that could force international students to leave the country.

5. Illinois State University, founded in 1857, is the oldest public university in Illinois. Illinois State University has seven colleges: the College of Applied Science and Technology, the College of Arts and Sciences, the College of Business, the College of Education, the College of Fine Arts, Mennonite College of Nursing, and University Libraries. Illinois State University offers degree programs at the bachelor, masters and doctoral levels, including more than 165 undergraduate degree and 95 graduate degree programs spanning a number of academic disciplines.

6. Illinois State University is a body corporate and politic of the State of Illinois. The governance of Illinois State University is vested by law in the Board of Trustees, an autonomous governing board, as provided for in the Illinois State University Law, 110 ILCS 675/. The Board is comprised of seven (7) voting members appointed by the Governor of Illinois with the advice and consent of the Illinois Senate, and one voting member who is a student at Illinois State University.

7. The Illinois Board of Higher Education (“IBHE”) is the state agency charged with planning and coordinating Illinois’ state system of higher education in five major areas: budget, program approval & operating authority, master planning, grants administration, and information systems.

8. In fiscal year 2020, public universities in Illinois were allocated \$1.167 billion in funding, of which Illinois State University received \$69,769,300.¹ The \$69.8 million dollar appropriation is 14.6% of Illinois State University’s overall fiscal year 2020 operating budget of \$479.2 million.²

9. In spring 2020, the world and the University were forced to deal with the COVID-19 global pandemic. This global pandemic has had a stark impact on Illinois State University requiring unprecedented planning and devotion of resources to accommodate an effective response. Transitioning from a traditional residential campus to offering all courses online in the spring 2020 semester resulted in hardships not previously experienced by Illinois State University and its community. The abrupt end to residential learning created never-before-seen challenges for students, faculty, and staff. There have been many lessons learned since March.

10. After being named Provost in March of 2020, I began my involvement in the Illinois State University’s response to the global COVID-19 pandemic. This work included a cabinet level team, steering team, emergency operations team, and nineteen (19) workgroups devoted to planning efforts. These workgroups include: Academic Continuity; Athletics, Club Sports and Recreation; Dining; Employment; Facilities, Cleaning, Maintenance; Finance; Healthcare and Mental Well-Being; Housing; International Programs; Lab Schools and Child

¹ IBHE, Fiscal Year 2020 Appropriations for Higher Education General Assembly Action summarizing the General Assembly’s action on the Fiscal Year 2020 budget for the State of Illinois, are available at: https://www.ibhe.org/board/2019/04June2019/Item_E-1_FY20_Appropriation_General_Assembly_Action.pdf.

² Illinois State University Budget Data: <https://budget.illinoisstate.edu/data/>.

Care; Meetings, Gatherings and Events; Messaging and Marketing; Research; University Advancement; University-Sponsored Travel; Diversity Inclusion; Face Covering Requirements and Compliance; Testing, Contract Tracing. Workgroup planning for the fall 2020 semester is ongoing.

11. On March 13, 2020, the same day a national emergency was declared, U.S. Immigration and Customs Enforcement (ICE) issued guidance (“March 13 Guidance”) relaxing the restriction on international student’s ability to take online coursework in order to allow international students to continue their academic pursuits thereby mitigating the impact of all courses being forced to transition to an online delivery method due to the COVID-19 pandemic.

12. The March 13 Guidance stated that it would remain “in effect for the duration of the emergency.” Based on this statement, Illinois State University has had no choice but to rely on the March 13 Guidance to prepare for the summer and fall 2020 semester planning. Despite the fact that emergency declarations remain in effect, on July 6, 2020, ICE rescinded the March 13 Guidance and issued the new Rule. In addition, the Rule was released as non-binding guidance and did not provide the required notice-and-comment period for rulemaking.

13. The new Rule requires that students attending entirely online programs may not remain in the United States. In addition, the new Rule would require that all international students leave the United States should Illinois State University move to all online courses mid-semester, as the institution was required to do this past spring. The new Rule, if it takes effect, will have severe consequences on Illinois State University and its international students.

14. Following the spring 2020 mid-semester change to online instruction, Illinois State University continued to evaluate and update plans for fall 2020 as local, state, and federal public health guidance has evolved. Based on planning that has been underway since April

2020, Illinois State University will be teaching in a hybrid model (including in person, hybrid, and online courses) for the fall 2020 semester. As the fall 2020 start date approaches, the national state of emergency and Illinois' declared state of emergency remain in place. More significantly, in the past three weeks, global and national reported number of COVID-19 cases are rising and potentially outpacing initial spring 2020 trends.

15. Given these efforts, the impact of the Rule is immediate and severe and will disrupt ongoing University planning. Currently, Illinois State University plans to offer a blend of in-person, hybrid, and online courses for fall 2020.

16. For example, due to the Rule the University is now forced to ask faculty to consider adding in-person course options to comply with the Rule, after many had initially recommended, and the University had published the course in an online instructional format (or modality). Prior to July 6, 2020, estimates of the percentage of University courses that would be offered in an in-person format were at only 30% of all planned courses. Based on the ever changing pandemic, faculty were given a chance (or choice) to revise their planned instructional mode. July 15 is currently the deadline to submit revised course delivery modes to the University Registrar. The Rule will impact all of these faculty decisions with less than a week to make a choice for the fall 2020 and will force faculty to deemphasize health and safety considerations based solely on the Rule.

17. With respect to health and safety considerations, in-person classes will be limited to 30% capacity in most classrooms to ensure appropriate physical distancing. Illinois State University prides itself on individual attention and small class sizes. For a classroom that typically holds 21-40 students, based on the revised COVID-19 capacity guidelines, out of 247 total classrooms, Illinois State University only has 27 classrooms that can accommodate this

class size. Having to offer additional and unnecessary in-person classes to meet this Rule puts a severe strain on University resources. This change in priority represents a shift from making space decisions based solely on capacity and health guidelines and forces the University to accommodate in-person instruction modality based solely on the presence of an international student in the course. This is not equitable for the faculty, the international student or the other students enrolled in the course.

18. The issuance of the Rule also will have significant impacts on our numbers of international students. According to institutional data for fall 2019, Illinois State University had 558 non-U.S. citizen students (136 undergraduate students; 422 graduate students) who came from 71 different nations. Based on current information in the Student Exchange Visitor Information System (“SEVIS”), Illinois State University currently has 637 enrolled students who have active F-1 visas. This marks an increase from our prior year.

19. Of the students with current F-1 visas, 445 are currently in the United States, 150 students have departed from the United States as reported in the SEVIS system, and 42 have no entry or departure dates in the system. We estimated that a significant percentage of newly admitted international students do not yet have visas or visa appointments and thus will not be able to attend on campus and would require online instruction.

20. It is difficult to estimate how the anticipated disenrollment or loss of international students due to the Rule, will impact Illinois State University economically. Based on the information available to date, Illinois State University has estimated that 40% of our international student population may not be able to return to the United States. In addition, we estimate that another 30% of the international student population may be potentially required to depart the United States prior to the fall 2020 semester based on lack of in-person classes.

Should the University be required to change its instructional modality from hybrid to all online mid-semester based on Illinois public health directives, then all international students would be required to depart the country.

21. Assuming that 70% of the total Illinois State University international student population disenrolls for fall 2020 based on the potential impact of the Rule, the University has estimated the potential revenue losses attributable to international students from tuition, housing and dining revenue and other fees, based on international student enrollment statistics from the 2019-2020 academic year as outlined below.

22. With respect to tuition revenues, using historical enrollment data, Illinois State University estimates it received approximately \$6.3 million in revenue from international students for the 2019-2020 academic year. This estimate is based on the published non-resident tuition and fees rates.³ Assuming that 70% of the student population disenrolls due to the Rule, the potential loss could be approximately \$4.41 million, not including financial aid awarded and tuition waivers granted to international students serving as graduate assistants.

23. With respect to housing and dining contracts, Illinois State University estimates that a total of \$716,221 is attributable to international students with on-campus housing contracts and residential meal plans for the 2019-2020 year.⁴ Assuming a potential 70% reduction in

³ Based on the published rates for fall 2019, an undergraduate student with a full-time load (based on 15 credits per semester) would pay \$11,523.90 for tuition and \$3,308.40 in required fees for a total of \$14,832.30 for non-resident tuition. Based on the published rates for fall 2019, a graduate student with a full-time load (based on 9 credit hours per semester) would pay a total of \$15,089.40 in tuition and \$1661.04 in required fees for a total of \$17,290.44 for non-resident tuition.

⁴ Illinois State University following numbers of international students with housing and dining contracts for fall 2019 and spring 2020.

- Fall 2019: 59 international students with on-campus housing contracts and 89 international students with meal plans.
- Spring 2020: 58 international students with on-campus housing contracts and 90 international students with meal plans.
- Fall 2019/Spring 2020 Housing Room Rates: Although room-rates varied based on University residence hall location, the average room-rate for a double room was \$2,667 per semester or \$5,334 annually.
- Fall 2019/Spring 2020 Dining Rates: Although meal plan rates vary, the 7-day unlimited access residential meal plan rate was \$2,258 per semester or \$4,516 annually.

international student enrollment due to the Rule, the University could potentially lose approximately \$501,355 in associated housing and dining revenue.⁵

24. With respect to increased instructional costs, under the Rule, additional sections of both online and in-person classes may be needed to accommodate international students both within the United States and those who cannot travel to the United States and must remain abroad. Based on initial estimates for Illinois State University undergraduates and graduates, Illinois State University has 242 students who need to add one in-person course, which equates to adding 64 additional classes or sections and hiring additional staffing at an overload rate. Based on estimated salary costs, these 64 additional classes could add an additional approximate cost \$726,000.⁶ In addition, for programs that currently do not have online offerings, it would cost approx. \$1,375,000 to add one online class to each section with international students.

25. Based on initial estimates for Illinois State University pathway students (undergraduates and graduates), Illinois State University is anticipating it will be required to double the number of sections in the English language program for a cost of \$112,374.

26. In addition to instructional costs, the Rule will cause Illinois State University to incur significant administrative and/or operational burdens. The new Rule will place a severe strain on the operations of our International Scholar and Student Services Office. The ISSS Office is staffed by three individuals to support a population of more than 600 international students. In just four days, the Rule has caused administrators to scramble to find answers, and

⁵ Please note this figure is an estimate based on average housing and meal plan rates, and does not represent lost revenue attributable to the international students attending Illinois State University in 2019-2020, as the students may have selected alternate housing configurations or different dining options.

⁶ Salary costs for overload for faculty members are estimated as follows: Technology, business, information technology and economics average \$15,000 for an overload. Science and math faculty earn an average of \$10,000 per overload. Social sciences and humanities earn an average of \$8000 per overload.

respond to significant increases in call and email volume. Some international students have visa appointments as early as next week.

27. In a matter of weeks prior to the fall semester under the new Rule, our ISSS must: a) develop a completely new process to inform students regarding their visa status; b) coordinate with academic advisors in order to properly respond to the guidance with respect to the in-person course requirements; c) respond to all international student inquiries (phone calls, emails, advising appointments) to address student concerns; and d) examine and re-examine each international student's visa status. Illinois State University cannot adequately make the required certifications and re-issue new I-20 documents in the time provided before the fall 2020 semester.

28. Beyond the economic and administrative burdens, there will also be an impact on educational programs. Losing up to 70% of the University's fall 2020 international student population, even if that participation is in an online instructional modality, will decrease the opportunities for greater interaction between students with different backgrounds and diminish the educational experience for the remaining students.

29. Inclusion of international students is a core value of the University. International students enrich the learning experience of domestic students in the classroom by bringing multiple perspectives into the classroom. Research supports the conclusion that: a) deep discussions with international students have a significant positive effect on the critical thinking skills of students;⁷ and b) international interaction is consistently and positively correlated with college outcomes and that U.S. students who interacted extensively with international students

⁷ Pascarella, E.T., Palmer, B., Moye, M., & Pierson, C.T. (2001). Do diversity experiences influence the development of critical thinking skills? *Journal of College Student Development*, 42, 257-271.

reported higher levels of engagement in college activities, such as coursework outside the major, contact with faculty outside class, ethnic or cultural clubs or organizations, and visiting speakers⁸; and c) found that interactional diversity experiences had positive effects on all college outcome variables such as personal and intellectual development, as well as diversity competence measures.⁹

30. With regards to the impact on campus life, Illinois State University anticipates a significant impact on the University's campus activities due to forced exclusions of international students as a result of the Rule. A diverse international student presence is a great benefit to the University community. International student representatives in leadership positions in student government, Academic Senate and various campus advisory boards would lose the opportunity to participate in campus governance and operations. Illinois State University is providing online opportunities for our registered student organizations and clubs to engage with all students, including clubs dedicated to international students. Excluding international students from these activities would be a loss in a valuable international perspective, diversity, and talent in these organizations.

31. With regards to the impact of the Rule on language acquisition, students will be removed from the English language environment and in many cases no longer be immersed in language instruction. Research shows the amount of exposure to a foreign language has a positive effect on student performance in a language program.¹⁰ Students who are not able to attend courses in the U.S. will miss out on the opportunity to easily connect with English

⁸ Luo, J. and Jamieson-Drake, D. (June 2013). Examining the Educational Benefits of Interacting with International Students. *Journal of International Students*, 3(2), 85-101.

⁹ Kuh, G.D. & Hu, S. (2001). The effects of student-faculty interaction in the 1990s. *Review of Higher Education*, 24(3), 309-332.

¹⁰ Campbell, R.N., Gray, T.C., Rhodes, N.C., & Snow, M.A. (1985). Foreign Language Learning in the Elementary Schools: A Comparison of Three Language Programs. *The Modern Language Journal*, 69 (1) 44-54.

language speakers, spend time in a social environment with English language speakers, and practice their second language speaking skills in informal settings. While a language partner program could be provided remotely, these opportunities need to be formally set up, will be limited in time, and will not naturally emerge like they would in a regular university setting.¹¹

32. The Rule impacts the University's planning with respect to travel. Under certain planning, University-sponsored travel will be limited and align with current Illinois Department of Health and CDC guidelines. Employees and students planning university-sponsored travel outside of Illinois are required to complete a pre-check assessment. Overall, students, faculty, and staff are asked to minimize their travel in order to reduce the impacts of COVID-19 on the campus community. Putting international students in a position where they will need to travel and/or to have to travel unexpectedly will cause both health and severe economic harm to international students.

33. With respect to public health concerns for students, faculty, staff and the University community, if the number of COVID-19 cases significantly increase in our area, or the Governor enacts a stay-at-home order, or our local community experiences multiple cases of COVID-19, Illinois State University must be prepared to move in-person courses to online formats if necessary for the health and safety of our University community. The Rule will specifically require international student to travel in a time where COVID-19 travel restrictions impedes students' ability to go home at all. For example, one undergraduate student from China recently experienced a death in her family and had a very difficult time returning to China. Now that student is in China and would have to return to the United States or risk jeopardizing the

¹¹ Id.

student's immigration status. In another example, numerous students from India have expressed concerns about potentially needing to return home due to the pandemic situation in their home country.

34. With respect to the economic harm to students, Illinois State University anticipates significant economic harm to our international students. For example, losing F-1 status would mean that students lose an opportunity to pursue professional opportunities through the CPT and OPT visa options after the end of the academic year. Illinois State University currently has 131 students on an OPT status. 65 F1 students have a December 2020 program end date who may lose an opportunity to pursue these professional opportunities.

35. Illinois State University anticipates that significant decreases in the international student population will also have downstream effects on the local economy. Illinois State University is the second largest employer in our community, the Bloomington-Normal area in central Illinois.¹² In fall of 2019, Illinois State University employed 3,800 full-time individuals, excluding student employees.

36. According to an April 4, 2016, economic impact analysis completed by Dr. Hassan Mohammadi, Professor of Economics, College of Arts and Sciences, and Dr. Frank Beck, Director of Stevenson Center for Community and Economic Development, Illinois State University plays an important economic role in our local county, McLean County. Based on fiscal year 2015 data, the authors concluded that Illinois State University generated 8,920 jobs,

¹² Bloomington Normal Economic Development Council Data: <https://www.visitbn.org/about/major-employers/>.

\$362,415,338 in labor income, and \$832,753,367 in output (expenditures). The analysis estimated that the student spending impact on the local economy was \$328,012,611.

37. According to the Association of International Educators (NAFSA), international students studying at U.S. colleges and universities contribute close to \$41 billion to the U.S. economy and support more than 458,000 jobs (NAFSA's economic analysis in 2018-19 academic year). In the State of Illinois, a total of 467,552 international students enrolled at Illinois colleges and universities from 2008 to 2018. Those enrollments generated 218,802 jobs during that 10-year period. In the 2018-19 academic year, 16,938 international students contributed \$536.9 million in the Illinois 13th congressional district, the district in which Illinois State University is located. That contribution supported 7,590 jobs. Jobs created or supported were mainly in the higher education (60%), accommodation (16%), dining (10%), retail (8%), health insurance (2%), telecom (less than 2%), and transportation sectors (less than 2%). These data do not account for indirect jobs created or supported across these sectors.

38. The impacts of the Rule will force many international students to withdraw from Illinois State University. The Rule requires Illinois State University to make an impossible choice: lose numerous students who bring immense benefits to the University community economically and otherwise, as well as to the local, state and national economies; or scramble to retain those students by spending substantial sums of money to comply with the Rule. This choice is exacerbated by declining enrollment generally, uncertainty regarding enrollment specifically related to COVID-19 at a time when University's top priority is the ability to protect the health and safety of the University community.

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

Executed this 11th day of July, 2020

A handwritten signature in black ink, appearing to read 'A. Tarhule', written in a cursive style.

Aondover Tarhule, Ph.D

Vice President for Academic Affairs and Provost

Illinois State University