

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

JANE DOE,

Petitioner,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, KRISTI NOEM, and THERESA
MESSIER,

Respondents.

CIVIL ACTION
NO. 2:25-cv-00240-cr

**BRIEF OF THE COMMONWEALTH OF MASSACHUSETTS AS AMICUS CURIAE IN
SUPPORT OF PETITIONER'S OPPOSITION TO THE MOTION TO DISMISS**

THE COMMONWEALTH OF
MASSACHUSETTS

By and through its attorneys,

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**Application for admission pro hac vice pending*

INTRODUCTION AND INTERESTS OF AMICUS

The Commonwealth of Massachusetts submits this brief in support of Petitioner Kseniia Petrova’s opposition to the federal respondents’ motion to dismiss. The Trump Administration has demonstrated a policy and practice of targeting international students and academics in Massachusetts for visa revocation and detention for nonexistent or minor offenses that are not grounds for inadmissibility. This punitive approach, which strips noncitizen students and academics of their lawful immigration status and prevents them from completing their studies, threatens the Commonwealth’s academic institutions, economic prosperity, and global leadership in education and scientific innovation. International students make considerable economic contributions to the Commonwealth, but their importance transcends economics; they enrich the Commonwealth’s academic discourse, strengthen its research capabilities, and enhance its global competitiveness. The Trump Administration’s actions targeting international students and academics sends a chilling message to talented students and academics around the world: that they risk detention, deportation, and an end to their academic career in the United States at the whims of the federal government. This message weakens the Commonwealth’s position in the global competition for talent and is antithetical to American values.

BACKGROUND

Ms. Petrova is a Russian national and resident of Massachusetts, who, prior to her detention in February 2025, was conducting research at Harvard University pursuant to a valid J-1 visa. Dkt. 1, (“Pet.”) ¶ 10. On February 16, 2024, after traveling abroad in France, Ms. Petrova returned to Massachusetts via Boston Logan International Airport. *Id.* ¶¶ 37, 43. She proceeded through customs, where a Customs and Border Patrol (“CBP”) officer placed a J-1 admission stamp on her passport. *Id.* ¶¶ 37-38. Ms. Petrova then proceeded to the luggage carousel, where a CBP officer

stopped her and searched her luggage. *Id.* ¶¶ 38-39. The officer found undeclared, non-toxic frog embryos that Ms. Petrova was transporting for research purposes at the request of her supervisor. *Id.* ¶¶ 35-36, 39-40. Rather than issue a fine or penalty—as CBP’s regulations dictate for proceeding through customs without properly declaring items—here, the CBP officer purported to mark Ms. Petrova’s J-1 visa as cancelled. *Id.* ¶ 40.

Having cancelled Ms. Petrova’s visa, CBP then found Ms. Petrova to be inadmissible because she was “an immigrant without a valid and unexpired immigrant document” pursuant to INA § 212(a)(7)(A)(i)(I). Dkt. No. 24 at 14. CBP offered Ms. Petrova the opportunity to withdraw her application for admission, which she accepted. *Id.* at 14-15. Ms. Petrova declined CBP’s offer to contact the Russian government about her whereabouts and expressed concern that she would be killed if returned to Russia. *Id.* at 15-16; Pet. ¶ 44. Ms. Petrova expressed no fear of returning to France. Pet. ¶¶ 43-44; Dkt. No. 41-2, ¶ 5. CBP then purported to “convert[]” Ms. Petrova’s withdrawal of her application for admission to a Notice and Order of Expedited Removal form. Dkt. 38-2, ¶ 16; Dkt. 1-4. The portion of the notice titled “Order of Removal” remained blank “given that [Ms. Petrova’s] removal would not be effectuated until such time as her credible fear claim was fully adjudicated by an asylum officer.” Dkt. 38-2, ¶ 17; Dkt. 1-4. Ms. Petrova was detained on February 16, 2025 and later placed in Immigration and Customs Enforcement custody and transferred to a detention facility in Louisiana, where she has been detained for over two months. Pet. ¶ 49; Dkt. No. 24 at 3-5. Over two weeks after she was detained, Ms. Petrova received a Notice to Appear before an immigration judge in removal proceedings. Dkt. No. 38 at 5. To date, Ms. Petrova “is not subject to a final removal order.” *Id.*

ARGUMENT

I. THE FEDERAL RESPONDENTS' MOTION TO DISMISS LACKS MERIT

The Commonwealth of Massachusetts supports Ms. Petrova's arguments on the pending motion to dismiss and writes here to highlight some of the Trump administration's unlawful policies utilizing immigration status and visa revocations as punishment.

First, as described in Ms. Petrova's opposition, CBP had no authority to cancel Ms. Petrova's visa or detain her as a penalty for her failure to declare certain items to CBP. The only applicable punishment for failure to declare is a fine and forfeiture of the undeclared item. 19 U.S.C. § 1497 (setting the penalties for failure to declare as "either \$500 or an amount equal to 1,000 percent of the value of the article, which amount is greater"); 19 C.F.R. § 148.18(a) (setting the penalty to be incurred for failure to declare as seizure of the item and the personal penalty set forth in § 1497). Here, however, in lieu of the fine, CBP purported to revoke Ms. Petrova's valid visa, which led to her being taken into government custody, transported across the country, and incarcerated for months while awaiting possible deportation. The government's actions have amounted to the loss "of all that makes life worth living." *See Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922).

Second, CBP has only limited authority to cancel a valid visa, and the federal respondents have not identified any lawful basis for doing so here.¹ *See Gill v. Mayorkas*, No. C20-939 MJP, 2021 WL 3367246, at *7 (W.D. Wash. Aug. 3, 2021) ("[T]he Secretary delegated limited authority to immigration officers to revoke visas only for specific reasons, and in an administrative way.").

¹ This court has authority to review CBP's decisions at ports of entry, which courts in the Second Circuit have distinguished from the decision of consular officers to issue a visa. *See Atanackovic v. Duke*, 399 F. Supp. 3d 79, 87-88 (W.D.N.Y. 2019).

The federal respondents point to 22 C.F.R. § 41.122(e)(2) as the basis of the visa revocation, Dkt. No. 24 at 1-2, but that regulation applies only to a noncitizen “ordered excluded ... or removed from the United States” under the INA. 22 C.F.R. § 41.122(e)(2). No such order has issued in Ms. Petrova’s case. Indeed, the federal respondents concede that Ms. Petrova “is not subject to a final removal order.” Dkt. 38 at 5; Dkt. No. 38-2, ¶ 17.

Third, CBP acted without lawful authority to deny Ms. Petrova admission and detain her. After CBP improperly cancelled Ms. Petrova’s visa (*see supra*), it immediately leveraged Ms. Petrova’s improperly cancelled visa to declare her inadmissible on the grounds that she was “an immigrant without a valid and unexpired immigrant document” pursuant to INA § 212(a)(7)(A)(i)(I). Dkt. No. 24 at 14. Despite Ms. Petrova accepting CBP’s offer to voluntarily withdraw her application for admission, CBP inexplicably purported to convert her voluntary withdrawal into expedited removal proceedings. Pet. ¶¶ 42-47; Dkt. No. 24 at 14-15. Ms. Petrova was then detained even though no signed order of removal was issued. Dkt. No. 38 at 5; Dkt. 38-2 ¶ 17. See *Mahdawi v. Trump*, --F. Supp. 3d.--, 2025 WL1243135, at *11 (D. Vt. Apr. 30, 2025) (pending appeal) (“Immigration detention cannot be motivated by a punitive purpose.”). As the Second Circuit recently held, there is no jurisdictional bar that prevents this Court from adjudicating a habeas petition challenging unlawful detention that commenced “*before* an [Notice to Appear] was filed in immigration court.” *Ozturk v. Hyde*, --F.4th--, 2025 WL 1318154, at *9 (2d Cir. May 7, 2025) (emphasis in original).

II. UNLAWFULLY WIELDING IMMIGRATION ENFORCEMENT AS PUNISHMENT INFLECTS SEVERE HARMS ON THE COMMONWEALTH

A. The Trump Administration Is Unlawfully Using Immigration Enforcement As A Punitive Measure

Due to the federal respondents' unlawful actions, Ms. Petrova—a respected and valued Massachusetts resident and member of the Harvard community—is now stuck in a nightmare of a situation: her visa was cancelled unlawfully, she was denied admission to the United States based on the unlawful cancellation of that visa, and she is incarcerated in Louisiana seemingly indefinitely based on an expedited removal order that was never signed. This situation is unjustifiable and unlawful.

Sadly, however, Ms. Petrova's situation is not unique. This case is just one example of the Trump Administration's policy of wielding immigration enforcement against students and academics as punishment for non-existent or minor offenses that should not incur immigration consequences. For example, Secretary of State Marco Rubio confirmed that "[w]henver the government catches non-U.S. citizens breaking our laws, we will take action to revoke their status."² This policy "extends to the thousands of foreign students studying in the United States who abuse our hospitality."³ The position of the Trump Administration is that even visa-holders who "otherwise abused our hospitality" but did not break any laws would find "their visas are instantly revoked."⁴

² Secretary of State Maro Rubio, *100 Days of an America First State Department*, U.S. Department of State (Apr. 30, 2025), https://statedept.substack.com/p/100-days-of-an-america-first-state-department?utm_campaign=post&utm_medium=web&triedRedirect=true.

³ *Id.*

⁴ *Id.*

In Massachusetts (and elsewhere), noncitizen students and academics at our colleges and universities have experienced unlawful and devastating immigration consequences under this punitive policy. As just one example, on March 25, plain-clothes ICE agents in Somerville, Massachusetts surrounded Rümeysa Öztürk—an international Ph.D. student at Tufts University—and took her into immigration custody, apparently for co-authoring an op-ed in the school newspaper.⁵ *Ozturk v. Trump*, -- F. Supp. 3d.--, 2025 WL 1009445, at *1-4 (D. Mass. 2025). Ms. Öztürk, like other students across the country, has been subjected to immigration detention as part of the Trump Administration’s effort to use immigration laws to punish noncitizen students associated with pro-Palestinian beliefs. *See id.* at 7-8 (“Ozturk’s case is one of several cases in which the Trump Administration has implemented these Executive Orders by revoking the immigration status of non-citizens who expressed support for Palestine.”).

Schools in Massachusetts (and across the country) also recently found that the Trump Administration had arbitrarily and unlawfully terminated the Student and Exchange Visitor Information System (“SEVIS”) records of numerous international students without warning or notice.⁶ SEVIS is the interactive online database ICE uses to administer the Student Exchange

⁵ Ms. Öztürk filed a petition for a writ of habeas corpus in the U.S. District Court for the District of Massachusetts. *See Ozturk v. Hyde*, No. 1:25-cv-10695-DJC, 2025 WL 942731 (D. Mass. Mar. 28, 2025). The Court initially ordered that she not be removed from the United States, *see id.*, and later transferred the case to Vermont. *See Ozturk*, 2025 WL 1009445, at *11. This Court recently ordered that Ms. Öztürk be released from immigration detention. *Ozturk v. Trump*, No. 2:25-cv-374, 2025 WL 1355667, at *1 (D. Vt. May 9, 2025).

⁶ Brooke Hauser and Samantha J. Gross, *Why are so many students in Mass. losing their visas? The answer lies in a little-known database*, The Boston Globe (Apr. 15, 2025), <https://www.bostonglobe.com/2025/04/15/metro/student-visa-ice-higher-education>; Collin Binkley, Annie Ma, and Makiya Seminera, *Colleges say the Trump administration is using new tactics to expel international students*, The Boston Globe (April 4, 2025), <https://www.bostonglobe.com/2025/04/04/nation/trump-administration-tactics-expel-international-students/>.

Visa Program and track the status of nonimmigrant students participating in the program. *See* 8 C.F.R. § 214.3(g). Under longstanding agency policy and practice, the termination of a SEVIS record imposed direct and immediate adverse administrative consequences for schools and students, including but not limited to the inability to re-enter the country, loss of employment authorizations, and in some cases, a requirement that the impacted student leave the country.⁷ Understandably, the mass-termination of SEVIS records without explanation caused panic and confusion as schools and students struggled to understand the rationale and consequences of the terminations.⁸ One former trial attorney for the Justice Department described the SEVIS terminations as “an attack on students” and described an effort by the current administration “to tag anyone they don’t like as a criminal alien.”⁹ The Trump Administration had no lawful basis for the mass termination of international students’ SEVIS records, which triggered a tsunami of

⁷ *See, e.g.*, Department of Homeland Security, *SEVIS Help HUB: Effects of Termination*, STUDY IN THE STATES, available at <https://studyinthestates.dhs.gov/sevis-help-hub/student-records/completions-and-terminations/terminate-a-student>.

⁸ Shelley Murphy and Giulia McDonnell Nieto del Rio, ‘It’s scary’: International students who fear deportation preemptively seek help from the courts, *The Boston Globe* (Apr. 23, 2025), <https://www.bostonglobe.com/2025/04/23/metro/judges-ice-international-students>.

⁹ *Id.*

litigation from affected students that resulted in preliminary relief.¹⁰ Unable to defend its actions in court, the Trump Administration opted to reinstate most of the terminated SEVIS records.¹¹

The Trump Administration's policy of punitive immigration enforcement—whether through detaining academics who fail to declare nontoxic substances, like Ms. Petrova; seizing and detaining students whose political views it disagrees with, like Ms. Öztürk; or effecting mass-terminations of student records, which the administration cannot even defend—is unlawful and creates an atmosphere of fear amongst all immigrants, including students and academics, in Massachusetts.

B. Punitive and Unlawful Immigration Enforcement Harms the Commonwealth

Noncitizen students and academics contribute substantially to the economic, cultural, and intellectual vitality of the Commonwealth. They enrich campus life through their diverse perspectives and contributions to innovation and research advancements that help maintain the

¹⁰ See, e.g., *Madan B K v. Noem*, 2025 WL 1171572 (W.D. Mich. April 23, 2025); *W.B. v. Noem*, 2025 WL 1180296 (N.D. Cal. April 23, 2025); *Alduaij v. Noem*, 2025 WL 1180743 (W.D. Pa. April 23, 2025); *Vyas v. Noem*, 2025 WL 1184118 (S.D. W.V. April 23, 2025); *Yang v. Noem*, 2025 WL 1166521 (W.D. Wis. April 22, 2025); *Shaik v. Noem*, 2025 WL 1170447 (D. Minn. April 22, 2025); *Doe v. Noem*, 2025 WL 1161386 (W.D. Va. April 21, 2025); *Chen v. Noem*, 2025 WL 1163653 (S.D. Ind. April 21, 2025); *Patel v. Bondi*, 2025 WL 1158708 (W.D. Pa. April 21, 2025); *Ajugwe v. Noem*, 2025 WL 1148689 (M.D. Fla. April 18, 2025); *Oruganti v. Noem*, 2025 WL 1144560 (S.D. Ohio April 18, 2025); *Daou v. Noem*, 2025 WL 1148687 (M.D. Fla. April 18, 2025); *Saxena v. Noem*, 2025 WL 1149498 (D. S.D. April 18, 2025); *Ariwoola v. Noem*, 2025 WL 1148491 (D. S.C. April 18, 2025); *Doe I v. Bondi*, 2025 WL 1188469 (N.D. Ga. April 18, 2025); *Student Doe v. Noem*, 2025 WL 1134977 (E.D. Ca. April 17, 2025); *Doe v. Noem*, 2025 WL 1141279 (W.D. Wash. Apr. 17, 2025); *Patel v. Bondi*, 2025 WL 1134875 (W.D. Pa. April 17, 2025); *Roe v. Noem*, 2025 WL 1114694 (D. Mont. Apr. 15, 2025); *Isserdasani v. Noem*, 2025 WL 1118626 (W.D. Wis. April 15, 2025); *Ratsantiboon v. Noem*, 2025 WL 1118645 (D. Minn. April 15, 2025); *Hinge v. Lyons*, 2025 WL 1134966 (D.D.C. April 15, 2025); *Liu v. Noem*, 2025 WL 1189760 (D.N.H. April 10, 2025).

¹¹ Adrian Florido, *Government says – for now – it will restore international students' status*, NPR (Apr. 25, 2025), <https://www.npr.org/2025/04/25/nx-s1-5377610/government-says-for-now-it-will-restore-international-students-status>.

competitiveness and prestige of our colleges and universities. Their presence deepens relationships that create long-term advantages for the Commonwealth's economic development, cultural enrichment, and international standing. Noncitizen students and academics also generate significant tax revenue, fill critical workforce gaps, and start businesses that create jobs. The Commonwealth is harmed when noncitizen students and academics are targeted for punitive immigration enforcement. As the Supreme Court has observed, "[s]cholarship cannot flourish in an atmosphere of suspicion and distrust" and to impose such an atmosphere "would imperil the future of our Nation." *See Sweezy v. State of N.H. ex rel. Wyman*, 354 U.S. 234, 250 (1957).

Noncitizen students are vital to the success of the Commonwealth's academic institutions. During the 2023 to 2024 school year, Massachusetts hosted 82,306 international students who supported more than 35,000 jobs and contributed approximately \$3.9 billion annually to the economy through tuition, living expenses, and related spending.¹² These students and academics bring diverse perspectives that enhance the Commonwealth's educational environments, with international students and scholars fostering global awareness and cross-cultural understanding in classrooms and research settings.¹³ These interactions expand students' worldviews, build cultural empathy, and help develop them into global leaders. The Commonwealth's public colleges and universities are deeply committed to global engagement, partnering with international counterparts

¹² *See* NAFSA: Association of International Educators, *NAFSA International Student Economic Value Tool* (2023-24), <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2> (last visited May 5, 2025).

¹³ Empirical research suggests that academic performance improves as the percentage of immigrant students increases. *See* Paul N'Dri Konan, et al., *Cultural Diversity in the Classroom and its Effects on Academic Performance: A Cross-National Perspective*, 41 Soc. Psych. 230-37 (2010). *See also* Judit Kende, et al., *Social and institutional inclusion in multi-ethnic schools enable better intergroup relations for majority youth and higher school achievement for minority youth*, 103 Int'l J. of Intercultural Rels. (Nov. 2024), <https://www.sciencedirect.com/science/article/pii/S0147176724001573>.

to facilitate research projects and academic programs all over the world.¹⁴ These programs reflect the reciprocal benefits conferred by foreign exchange: the Commonwealth gains economically, socially, and culturally from the presence of noncitizen students and academics while the international community benefits immensely by the knowledge-sharing and global problem-solving these exchanges allow.

Noncitizen students and academics also contribute to the Massachusetts economy, labor force, and communities in several important ways. Immigrant-led households in Massachusetts, for example, earned over 15% of all income earned in the Commonwealth in 2014.¹⁵ “With those earnings, the state’s foreign-born households were able to contribute more than one in every seven dollars paid by Massachusetts residents in state and local tax revenues, payments that support important public services such as public schools and police.”¹⁶ Immigrants make up a large portion of the Massachusetts labor force (21.9%) and a disproportionate share of the Commonwealth’s entrepreneurs (27%), STEM workers (29.3%), and health aides (38.6%).¹⁷ Simply put, the contributions of noncitizen residents strengthens the Commonwealth’s fiscal health and global competitiveness.

¹⁴ See, e.g., UMass Amherst, *Global Partnerships*, <https://www.umass.edu/global-affairs/global-partnerships> (last visited Apr. 10, 2025).

¹⁵ New American Economy, *The Contributions of New Americans in Massachusetts* 7 (Aug. 2016), <https://www.newamericaneconomy.org/wp-content/uploads/2017/02/nae-ma-report.pdf>.

¹⁶ *Id.*

¹⁷ American Immigration Council, *Immigrants in Massachusetts*, <https://map.americanimmigrationcouncil.org/locations/massachusetts/>. See generally, Aidan Enright, et al., *International Students: Poorly Suited Immigration Pathways Stymie Formation of High Growth Businesses* 4, Pioneer Institute, (July 2024), <https://files.eric.ed.gov/fulltext/ED656349.pdf> (“A significant body of research has found that immigrants are more likely to start businesses than those born in the U.S., and the propensity of international students to concentrate in STEM fields indicates enormous potential for economic contributions.”).

The Trump Administration's punitive immigration enforcement policy endangers the Commonwealth's fiscal health and global competitiveness. International students and academics who are placed in immigration detention are unable to continue their scholarship to the detriment of their peers and the larger academic landscape. Prospective international students and academics understandably fear unjustified immigration detention, which studies show negatively impacts the physical and mental health of detainees.¹⁸ The United States, and Massachusetts in particular given our world-class colleges and universities, are facing a brain drain as a result of the Trump Administration's actions: in a recent survey of over 690 postgraduate students, 548 had considered leaving the United States.¹⁹ Other countries are already using this opportunity to recruit talented students and academics to study and work abroad rather than in Massachusetts.²⁰

By creating an atmosphere of fear, the Trump Administration has threatened the Commonwealth's communities, economy, and standing as a research hub and a leader in higher education.

¹⁸ World Health Organization, *Addressing the health challenges in immigration detention, and alternatives to detention* 13-24,

[https://iris.who.int/bitstream/handle/10665/353569/9789289057929-](https://iris.who.int/bitstream/handle/10665/353569/9789289057929-eng.pdf?sequence=2&isAllowed=y)

[eng.pdf?sequence=2&isAllowed=y](https://iris.who.int/bitstream/handle/10665/353569/9789289057929-eng.pdf?sequence=2&isAllowed=y); Saadi, Patler & Langer, *Duration in Immigration Detention and Health Harms*, JAMA Network Open (Jan, 25, 2024)

https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2829506#google_vignette.

¹⁹ Michael T. Nietzel, *Has the Brain Drain From U.S. Universities Already Begun?*, Forbes (Mar. 31, 2025), <https://www.forbes.com/sites/michaelt Nietzel/2025/03/31/has-the-brain-drain-from-us-universities-already-begun/>.

²⁰ Hilary Burns and Mike Damiano, *Healey sounds alarm over foreign recruiting of Mass. scientists*, The Boston Globe (Mar. 20, 2025), <https://www.bostonglobe.com/2025/03/19/metro/china-foreign-governments-recruit-massachusetts-scientists-trump-cuts/>.

CONCLUSION

For the foregoing reasons, this Court should deny the federal respondents' motion to dismiss.

Respectfully submitted,

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**Application for admission pro hac vice pending*

Dated: May 12, 2025

CERTIFICATE OF SERVICE

I, Christophe Courchesne, hereby certify that I have this day, May 12, 2025, served the foregoing document upon all parties of record, by electronically filing to all ECF-registered parties and by sending a copy, first-class mail, postage prepaid to all unregistered parties.

/s/ Christophe Courchesne
Christophe Courchesne