

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 21, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

The Honorable Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

Dear Secretary Mayorkas and Acting Director Johnson:

I write to you today regarding the U.S. Customs and Immigration Enforcement (ICE) Student and Exchange Visitor Program (SEVP) 2020 report on data from the Student and Exchange Visitor Information System (SEVIS).¹ This annual report contains important data related to our nation's student visa programs and paid "practical training" programs, such as the Optional Practical Training (OPT) program.

As you are aware, the OPT program gives foreign students in this country on F-1 student visas the opportunity to gain temporary employment in the United States that is ostensibly "directly related" to their "major area of study."² F-1 students can receive up to 12 months of OPT employment authorization, which can be extended by an additional 24 months if the F-1 student has earned a degree in certain science, technology, engineering, and math (STEM) fields.³ This is known as the STEM OPT extension. Together these programs, along with the Curricular Practical Training (CPT) program, act as entry level career placement programs that are not available to American students.

I have long raised concerns about fraud and abuse within the F-1 student visa program and the OPT, STEM OPT, and CPT programs in particular. In March 2018, I sent a letter to then-Secretary Nielsen regarding bad actors operating "visa mills," which pose as educational institutions but actually serve as de facto employment agencies for students entering the United States on F-1 student visas and seeking to work.⁴ In May 2020, I followed up on that letter with a letter to then-Acting Secretary Wolf regarding fraudulent companies that provide fake

¹ *SEVP Data Library*, U.S. Immigration and Customs Enforcement, available at <https://www.ice.gov/SEVPdata>.

² *Optional Practical Training (OPT) for F-1 Students*, U.S. Citizenship and Immigration Services, available at <https://www.uscis.gov/working-in-the-united-states/students-and-exchange-visitors/optional-practical-training-opt-for-f-1-students>.

³ *Id.*

⁴ LETTER FROM SENATOR CHARLES E. GRASSLEY, CHAIRMAN, U.S. SENATE COMMITTEE ON THE JUDICIARY TO SECRETARY KIRSTJEN NIELSEN (March 22, 2018) available at [https://www.judiciary.senate.gov/imo/media/doc/2018-3-22%20CEG%20to%20DHS%20\(SEVP%20and%20Student%20Visas\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-3-22%20CEG%20to%20DHS%20(SEVP%20and%20Student%20Visas).pdf).

employment offers to foreign students so that they can meet OPT employment requirements, extend their F-1 visas, and remain in this country after graduation.⁵

The letter to Acting Secretary Wolf highlighted the case of Weiyun “Kelly” Huang, who pleaded guilty in federal court to conspiracy to commit visa fraud after setting up two fake companies and providing false employment verification to more than 2,500 individuals who held F-1 student visas.⁶ It also referenced troubling media reports of fake companies that potentially employed thousands of foreign students and appeared on SEVP’s own list of top OPT employers.⁷ In fact, the reports identified the two companies operated by Ms. Huang on SEVP’s 2017 list of OPT employers.⁸

To its credit, the Trump Administration undertook an effort to increase transparency surrounding the OPT, STEM OPT, and CPT programs and make more data about the programs publicly available. As a result, SEVP produced data showing the top 200 employers for OPT, STEM OPT, and CPT students as part of its annual SEVIS data reports in 2017, 2018, and 2019.⁹ It was this employer data that has helped publicly expose the extent to which bad actors such as Ms. Huang have infiltrated the OPT and other practical training programs over the years. It also helped shed light on the amount of work that still needs to be done to clean up the fraud and abuse in the student visa and practical training programs.

That is why I was shocked to see that, without explanation, the Biden Administration failed to include any data related to OPT, STEM OPT, and CPT employers in SEVP’s 2020 SEVIS data release and report.¹⁰ Unlike the three previous years, no data was released related to the top 200 employers for OPT, STEM OPT, and CPT students. Similarly, no employer data was included in the 2020 “SEVIS by the Numbers” report.¹¹

Accordingly, please answer the following questions no later than May 5, 2021:

1. Why was the list of top OPT, STEM OPT, and CPT employers not included in SEVP’s 2020 Student and Exchange Visitor Information System (SEVIS) data report or the 2020 “SEVIS by the Numbers” report?
2. Does SEVP intend to release the 2020 OPT, STEM OPT, and CPT employer data at a later date? If so, when? If not, why not?

⁵ LETTER FROM SENATOR CHARLES E. GRASSLEY, CHAIRMAN, U.S. SENATE COMMITTEE ON FINANCE TO ACTING SECRETARY CHAD WOLF (May 21, 2020) *available at* [https://www.grassley.senate.gov/imo/media/doc/2020-05-21%20%20CEG%20to%20DHS%20\(F-1%20Visa%20Oversight\).pdf](https://www.grassley.senate.gov/imo/media/doc/2020-05-21%20%20CEG%20to%20DHS%20(F-1%20Visa%20Oversight).pdf).

⁶ *Id.*; United States of America vs. Weiyun Huang, Plea Agreement, *available at* <https://www.courtlistener.com/recap/gov.uscourts.ilnd.363006/gov.uscourts.ilnd.363006.42.0.pdf>.

⁷ *Id.*; Gabe Gutierrez and Rich Gardella, “Thousands of foreign students in U.S. on student visas may have ‘worked’ for fake companies,” NBC News (Jan. 2, 2020), *available at* <https://www.nbcnews.com/politics/immigration/thousands-foreign-students-u-s-student-visas-may-have-workedn1109286>.

⁸ *Id.*

⁹ *Supra* note 1.

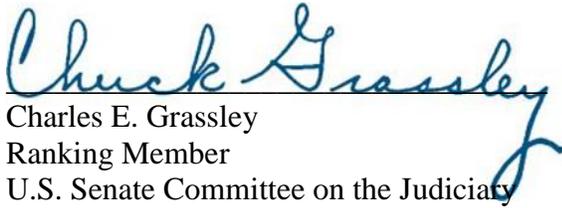
¹⁰ *Id.*

¹¹ *Student and Exchange Visitor Program (SEVP) 2020 SEVIS by the Numbers Report*, U.S. Immigration and Customs Enforcement, *available at* <https://www.ice.gov/doclib/sevis/pdf/sevisBTN2020.pdf>.

3. Will both of you and SEVP commit to releasing the same OPT, STEM OPT, and CPT employer data during each year of the Biden Administration that was released in 2017, 2018, and 2019?

Thank you for your attention to this important matter. Should you have questions, please contact Drew Robinson of my staff at 202-224-5225.

Sincerely,


Charles E. Grassley
Ranking Member
U.S. Senate Committee on the Judiciary