



June 13, 2022

The Honorable Alex Padilla
Chairman, Subcommittee on Immigration, Citizenship, and Border Safety
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable John Cornyn
Ranking Member, Subcommittee on Immigration, Citizenship, and Border Safety
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Padilla and Ranking Member Cornyn,

On behalf of the 24 national unions in the Department for Professional Employees, AFL-CIO (DPE), I wish to share our perspective on the topic of the Subcommittee's June 14th hearing, "Strengthening Our Workforce and Economy Through Higher Education and Immigration."

The hearing topic is directly relevant to DPE's affiliate unions, which represent over four million professional, technical, and other highly skilled workers. The members of DPE's unions come from a diverse array of backgrounds, nationalities, and immigration experiences. Within our coalition are U.S. citizens, permanent residents, DACA and TPS beneficiaries, and people working on F, J, H, O, and P nonimmigrant visas. Members of DPE affiliate unions work in nearly every industry, including as faculty and graduate employees at colleges and universities across the country.

Indeed, as the Subcommittee convenes this hearing focused on the higher education field, it is important to remember that colleges and universities are both places of learning and places of employment for international students. International graduate students, including members of DPE's unions, work on their campuses in various teaching and research roles. Too often higher education employers threaten these international students with the revocation of their visa and deportation if they exercise their workplace rights, including the right to organize as a union and engage in concerted activity.¹ Along with denouncing this egregious employer behavior, we urge the Subcommittee to support reforms to relevant F-1 and J-1 regulations that have been used by

¹ See, e.g., [Washington University in St. Louis, Case 14-CA-202172, NLRB Advice Memorandum dated Oct. 31, 2017](#) (noting the tension between the regulation and labor law); Bill Shackner, *Is fear over visa status being used to derail Penn State unionization effort?* (Pittsburgh Post-Gazette, Apr. 12, 2018).

colleges and universities to create doubt or fear on the part of international graduate employees engaging in protected labor activity. These regulations should be clarified to make clear that labor protests, including strikes, are protected and would not be grounds under either regulation for any adverse action either from an employer, sponsor organization, or the government.

Support for high-road immigration policies that empower professionals

DPE has long advocated for fundamental reforms to the U.S. immigration system to ensure enforceable workers' rights and labor standards in any visa program affecting professionals. We oppose low-road immigration policies that benefit corporate interests by allowing differential treatment of workers as a source of cheap labor, and we support smart policies that ensure all working people can earn a fair return on their work. DPE's guiding belief is that U.S. immigration policies must work for professionals, and not just employers.

The Keep STEM Talent Act is legislation that meets the mark as a high-road approach to attracting and retaining international talent. Reintroduced in the Senate this year by Judiciary Committee Chairman Durbin, along with members of this Subcommittee, including Chairman Padilla, Senator Blumenthal, Senator Klobuchar, and Senator Hirono, this legislation enables talented graduates from U.S. colleges and universities to continue contributing to the American economy while ensuring that they can earn a fair return on their work. Under this legislation, international graduates who earn STEM advanced degrees from American universities are exempt from the annual green card caps so long as their employers receive approved labor certifications and pay them above the median wage level for the occupation and geographic area. The Keep STEM Talent Act offers in-demand graduates a direct path to permanence, rather than forcing them to accept precarious, temporary visas. This approach reinforces the professionalism of the STEM workforce and affords individuals agency in the labor market. DPE is proud to support the Keep STEM Talent Act and urges the Subcommittee to take up this legislation as a way to retain international graduates in the United States.

DPE's commitment to a high-road immigration system is also why we advocate for policies that empower professionals, including a path to citizenship for recipients of TPS (Temporary Protected Status,) DACA (Deferred Action for Childhood Arrivals) and DED (Deferred Enforced Departure). DPE supports allowing professionals to self-petition for permanent status and providing labor market mobility to individuals with approved I-140s. DPE also advocates for prohibitions on "breach fees," the far too common practice of employers requiring employees to sign one-sided contracts with enormous financial penalties that effectively bind these professionals to their jobs in exchange for sponsoring them for permanent status. DPE believes the Subcommittee should pursue these reforms so that the world's talent will feel certain that they will not face employer coercion if they come to work in the United States.

The need for improved tracking of the education to workforce pipeline

DPE also supports improvements to tracking the education to workforce pipeline. Underpinning any conversation on recruiting workers from abroad is the question of the supply of available, qualified professionals in the United States. This Subcommittee, and the Congress

as a whole, should have the most accurate statistical picture possible. It is not enough to take the corporate lobby at its word. DPE has watched in recent years too many employers, including in higher education, claim they cannot find qualified workers, only to layoff their employees, including members of our unions, and require them to train their foreign replacements as a condition for their severance.

While federal and state efforts have made strides to better track the education to workforce pipeline, Congress can and should take concrete steps to improve STEM education and workforce research and data and to assist workers, employers, and educators make informed decisions.² Currently, national surveys by the Census Bureau (Community Population Survey) and Bureau of Labor Statistics (Occupational Employment Statistics Survey) are the basis for identifying education and occupation trends. The surveys provide valuable and suitable information for a variety of purposes, but the data produced does not effectively identify state, regional, and national trends for STEM education and the STEM workforce.

Unemployment Insurance (UI) wage records, which are filed on a quarterly basis by employers, provide a picture of industry employment and separations, hours worked, and wages. However, UI records are currently a missed opportunity to capture accurate and dynamic occupational data. Done correctly, the inclusion of occupational data in UI wage records would give policymakers, education systems, and all stakeholders insight to national, regional, and local labor markets. Enhanced UI wage records could connect credentials and training to specific occupations and provide career mapping information over the course of changes and shifts to the economy.

Following the recommendations of the U.S. Department of Labor's Workforce Information Advisory Council, Congress should commit the federal government to pursuing a phased-in, well-managed, and properly funded process for collecting and analyzing high-quality occupation data via states' UI systems' wage records. This policy commitment should be supported with increased funding for research and IT needs at the various state agencies performing education and workforce analysis. Finally, the benefit of overhauling and aligning UI records to provide occupational data should be articulated to the business community, education systems, and workers and students in the education-to-workforce pipeline and/or career transition.³

In closing, any effort to strengthen the country's workforce and economy through immigration must start by providing a pathway to citizenship for recipients of DACA, TPS, and DED. These hard-working individuals are our family members, neighbors, and coworkers, and they have already been here making positive contributions to our communities for decades. If

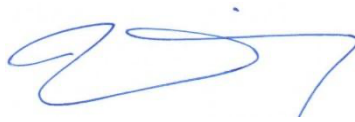
² For an example of existing federal-state efforts in improve education data and analysis of education outcomes, see Statewide Longitudinal Data Systems Grant Program administered by the Department of Education's National Center of Educational Statistics, https://nces.ed.gov/programs/slids/grant_information.asp.

³ DOL Workforce Information Advisory Council, Recommendations to Improve the Nation's Workforce and Labor Market Information System, Jan. 2018, https://www.doleta.gov/wioa/wiac/docs/WIAC_Recommendations_Report_2018-01-25_Final_and_Signed.pdf. Legislative text for including occupational information in UI wage records can be found in: U.S. Senate Proposed legislation: S. 1269, Trade Facilitation and Trade Enforcement Act of 2015, Section 913. Improved collection and use of labor market information, 114th Congress, S. Rept. 114-45, (May 13, 2015).

Congress wants to recruit and retain the world's talent, it must understand the need and identify ways to ensure that all professionals, regardless of immigration status, can earn fair, family-supporting pay in an environment free from exploitation. That means pursuing a high-road approach to immigration that puts working people first by lifting wages, promoting worker empowerment, and ensuring that they can exercise their workplace rights free of retaliation or coercion. DPE stands ready to work with the Subcommittee to pass immigration reform that achieves these necessary outcomes.

If you have any questions, please contact DPE Assistant to the President/Legislative Director, Michael Wasser at mwasser@dpeaficio.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "JDorning", with a stylized flourish at the end.

Jennifer Dorning, President