

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

HAMEED KHALID DARWEESH, et al.,

Petitioners,

and

PEOPLE OF THE STATE OF NEW YORK, by
ERIC T. SCHNEIDERMAN,
ATTORNEY GENERAL OF THE STATE
OF NEW YORK ,

Intervenor-Plaintiff,

v.

DONALD TRUMP, President of the United
States, et al.,

Respondents.

Civil Action No.
1:17-cv-00480 (CBA)

(Amon, J.)

**BRIEF OF ASSOCIATION OF AMERICAN UNIVERSITIES
AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS' REQUESTED RELIEF**

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INTRODUCTION

The Association of American Universities (AAU) is a non-profit organization, founded in 1900 to advance the international standing of United States research universities. AAU's mission is to shape policy for higher education, science, and innovation; promote best practices in undergraduate and graduate education; and strengthen the contributions of research universities to society. Its members include 62 public and private research universities.¹

Although 60 of AAU's member universities are located in the United States, each is part of a far greater worldwide network of learning, research, and education. Together, AAU members enroll tens of thousands of students from all over the United States and the world in undergraduate, graduate, and professional degree programs. They also employ faculty and researchers from around the globe. These international scholars routinely publish pioneering peer-reviewed work in virtually all fields of knowledge. Many have gone on to invent groundbreaking technology, start thriving businesses, and assume leadership roles in governments and other organizations, both in this country and abroad. As the President and Provost of the University of Virginia, an AAU member, succinctly stated:

Being a *great* university in the 21st century means being a *global* university, and our entire University community is enriched and enlightened by interacting with teachers and students from other nations. Providing these experiences is an investment in the future as we seek to build international cooperation and peace. Higher education leaders around the world continue to emulate America's colleges and universities because of the excellence we have achieved in teaching,

¹ A complete list of AAU members is available at: <http://www.aau.edu/about/default.aspx?id=16710>.

On February 3, 2017, four AAU members—Boston University, Brandeis University, Harvard University, and Massachusetts Institute of Technology—filed a substantially similar *amicus curiae* brief that was joined by several non-AAU members in *Louhghalam v. Trump*, No. 1:17-cv-10154-NMG (D. Mass), ECF No. 68.

research, and innovation, and an essential element of that excellence is our openness to people from other nations.²

During the past three weeks, AAU members have seen their law-abiding students stranded abroad, and their law-abiding faculty members prevented from travelling to and from foreign countries. Scholars based abroad are pulling out of academic conferences in the United States, either because they are directly affected by the travel ban or because they are concerned about the EO's harmful impact on academic discourse and research worldwide. And potential recruits have expressed serious doubts about attending or teaching at AAU schools. These consequences directly threaten the ability of AAU's member universities to fulfill their commitments to serving their students, their communities, the United States, and the world through innovative teaching and research. That commitment relies on maintaining a consistent pipeline of the most talented international students and scholars, who bring with them unique skills and perspectives that inure to the benefit of their classmates, colleagues, and society. And after receiving first-class educations in the United States, the benefits then flow in the opposite direction, as those students and scholars take back to their countries the lessons and values they learned here.

AAU also is committed to the security of its members' campuses and of the United States. Each member university places the highest priority on the safety of its students and scholars, and recognizes that security is essential to maintaining a productive learning environment. As AAU President Mary Sue Coleman has emphasized, AAU recognizes "the importance of a strong visa process to our nation's security. . . . That is why we have worked

² Letter from Teresa Sullivan, President, and Tom Katsouleas, Executive Vice President and Provost, to the University of Virginia Community (Jan. 29, 2017), <https://news.virginia.edu/content/uva-president-provost-address-immigration-issues>. Statements from leaders of other AAU members are available at: <http://www.aau.edu/policy/article.aspx?id=18367>.

closely with previous administrations, especially in the wake of 9/11, to ensure our visa system prevents entry by those who wish to harm us, while maintaining the inflow of talent that has contributed so much to our nation.”³

At the same time, it is essential that we maintain our deep commitment to ensuring the free flow of ideas and people that are critical to progress in a democratic society. The inquiry, innovation, and invention that take place every day within our members’ classrooms, libraries, and laboratories depend on the ability of scholars and students to travel to and from the United States. Without that ability, academic achievement—and the many economic and social benefits that such achievement generates—are profoundly at risk.

For these reasons, AAU submits this brief to provide information to this Court about the serious effects of the January 27, 2017 Executive Order (EO), entitled “Protecting the Nation from Foreign Terrorist Entry into the United States,” on the open academic exchange and collaboration that are essential to AAU members.⁴ Like many other academic institutions, AAU’s members “have a mission of ‘global engagement’ and rely on . . . visiting students, scholars, and faculty to advance their educational goals.” *State of Washington v. Trump*, No. 17-35105, 2017 WL 526497, at *4 (9th Cir. Feb. 9, 2017). The EO undercuts that vital mission and impairs the cross-border exchange of ideas that is critical to our members’ success as educational

³ Press Release, AAU, AAU Urges Quick End to Administration Order Barring Returning Students and Faculty (Statement by Association of American Universities President Mary Sue Coleman) (Jan. 28, 2017), <http://www.aau.edu/news/article.aspx?id=18366>.

⁴ This brief focuses on effects of the EO. A broader range of concerns expressed by individual universities may be found at: David Comp, *Running List of University/College and Higher Education Organization/Association Responses to President Trump's Executive Order Entitled "Protecting the Nation from Terrorist Entry into the United States by Foreign Nationals" Issued Jan. 27, 2017*, Int'l Higher Ed. Consulting Blog, <http://ihed-djc.blogspot.com/2017/01/running-list-of-universitycollege-and.html> (last visited Feb. 12, 2017).

institutions—and the ability of our members to contribute to the success of the country as a whole.

I. The Free Exchange of Information, Ideas, and Scholars Across Borders Is Vital to American Interests.

A. Universities and Their Communities Rely and Thrive on the Cross-Border Exchange of Ideas and People.

Colleges and universities in the United States regularly sit atop the rankings of the world's finest institutions of higher education.⁵ The consistent success of American institutions arises, in no small part, from their ability to attract the very best students and faculty from the United States and from other countries. By attracting the sharpest minds to work together on the world's most challenging problems, American institutions are ideally equipped to improve the human condition through medical advances, scientific breakthroughs, new political and economic insights, innovative technologies, and the rich learning experiences that an internationally diverse group of students and teachers helps cultivate.

As the attached Appendices reveal,⁶ AAU member universities collectively educate and employ nearly 300,000 international students and more than 82,000 faculty members from other countries. Indeed, in 2015, AAU universities hosted *more than one-third* of all international students who studied in the United States.⁷ Consider the following examples from schools in the South, North, East, and West: Rice University hosts 1,611 international students and 883 international scholars.⁸ The State University of New York (SUNY) at Buffalo enrolls 7,026

⁵ See *World Univ. Rankings 2016-2017*, Times Higher Educ., <https://www.timeshighereducation.com/world-university-rankings/2017/world-ranking#> (last visited Feb. 12, 2017).

⁶ See Appendix A; Appendix B.

⁷ See *AAU By The Numbers*, <http://www.aau.edu/AAU-Data-Page.aspx?id=16550>.

⁸ Int'l Students and Scholars at Rice, Rice Univ., Statistical Report, Executive Summary (2016), https://oiss.rice.edu/uploadedFiles/About_OISS/StatReport2016-Final.Public.pdf.

international students and employs 923 international scholars.⁹ More than 5,800 international students connect on University of Maryland, College Park's campus, and there interact with more than 1,300 international scholars.¹⁰ Purdue University hosts more than 9,000 international students from 127 countries and more than 900 international faculty and staff from 63 countries.¹¹ And 11,513 international students are enrolled in degree programs, and 3,512 international scholars are engaged in teaching and research, at the University of California, Los Angeles.¹²

The ability of AAU's member universities to attract these gifted, accomplished, and motivated students and scholars depends on ensuring predictable travel to and from the United States. If the member universities and their peer institutions cannot assure their students, professors, and researchers that they can leave the country to visit their families, attend international symposia or conferences, or engage in overseas field research without encountering undue impediments to their return, then these institutions will struggle to maintain the level of talent and experience that makes the United States the world leader in higher education and research and development.

⁹ *Open Doors Data, International Students: Leading Institutions, 2015/16*, Inst. of Int'l Educ., <http://www.iie.org/Research-and-Publications/Open-Doors/Data/International-Students/Leading-Institutions/2015-16> (last visited Feb. 15, 2017) (hereafter *Open Doors Data, International Students: Leading Institutions*); Appendix A.

¹⁰ *Open Doors Data, Leading Institutions Hosting International Scholars, 2015/16*, Inst. of Int'l Educ., <http://www.iie.org/Research-and-Publications/Open-Doors/Data/International-Scholars/Institutions-Hosting-the-Most-Scholars/2015-16> (last visited Feb. 15, 2017) (hereafter *Open Doors Data, Leading Institutions Hosting International Scholars*); Appendix A.

¹¹ *International Students and Scholars*, Purdue University, <https://www.iss.purdue.edu/> (last visited Feb. 15, 2017).

¹² *Open Doors Data, International Students: Leading Institutions; Open Doors Data, Leading Institutions Hosting International Scholars*.

The importance of maintaining international inclusion on our campuses cannot be overstated. Regular interactions with students and professors who come from different cultures and who have had vastly different life experiences promote both a richer understanding and a deeper appreciation of the world in which we live. Scholars hailing from different countries have confronted different social and political conditions and so can identify different problems to solve—and can see different solutions to offer. Equally important, international diversity challenges all of the members of an academic community to reevaluate their assumptions and to reconsider their beliefs and biases. As the President of one AAU university has explained, the member institutions are places of “rigor, ingenuity and real-world problem-solving where generations of bright young minds have come from every corner of the Earth to make something of themselves and work together to make a better world.”¹³

By way of example, the 21 Syrian students enrolled at UCLA this past semester were undoubtedly able to contribute to their peers’ understanding of the wide-ranging consequences of the war in Syria in a way no textbook or lecture ever could.¹⁴ Similarly, the Iranian students enrolled at the member institutions could offer a unique perspective on the strengths and weaknesses of the recent nuclear agreement and other aspects of the United States’ foreign policy that students could not absorb by simply reading op-eds in domestic newspapers.

To help foster meaningful interactions like these, thirty-five of AAU’s member institutions are involved in Scholars at Risk (SAR), an international network of higher-education institutions dedicated to promoting academic freedom and to protecting scholars from threats in

¹³ See Letter from L. Rafael Reif, President, MIT to Members of MIT Community (Nov. 9, 2017), <http://president.mit.edu/speeches-writing/our-eyes-future>.

¹⁴ See Appendix B.

their home countries.¹⁵ Since its founding in 1999, the SAR network processed applications from over 3,400 scholars, and secured 900 positions of sanctuary at universities and colleges in the United States. During the past two fiscal years alone, 249 scholars from the seven countries identified in the EO applied for SAR's assistance. SAR has arranged research and teaching positions for 100 of these scholars—representing 52 percent of all positions arranged during that time—including 20 at universities and colleges in the United States.¹⁶

Without question, the presence of international scholars and students enriches the experiences of all members of a university community. Indeed, the AAU member institutions would find it extraordinarily difficult to realize the ideals described in their respective mission statements if students and scholars from countries around the globe could not predictably enter and exit our country.

¹⁵ *Membership Directory*, Scholars at Risk Network, <https://www.scholarsatrisk.org/membership-directory/> (last visited Feb. 15, 2017); see also *We Leave Our Guns at the Door: The Essential Role of Higher Education* (Remarks by Robert Quinn, Executive Director), Scholars at Risk Network, Mar. 25, 2015, <https://forumea.org/wp-content/uploads/2014/09/RQuinn-Forum-on-Education-Abroad-26MAR2015.pdf> (explaining that the international scholars who come to the United States through SAR not only obtain refuge from dangerous conditions in their home countries, but they also help expand thought and discourse on American campuses, exposing our “hidden biases,” and holding up our most firmly held beliefs to the “kinds [of] cross-cultural quality-testing” that only a diverse international community can foster).

¹⁶ Since the EO was issued, SAR has observed several negative impacts on scholars who are receiving SAR's shelter. For example, a SAR scholar and a prominent human rights activist from Syria was detained as a result of the EO and questioned for hours at Dulles Airport after returning from a conference abroad. If removed to Syria, he likely would face arrest and imprisonment. Like this scholar, other SAR participants frequently travel abroad to visit other universities as guest teachers or speakers, to attend conferences, and to conduct field research or other professional activities, as well as for personal reasons. They can no longer predictably do so. In fact, a SAR scholar from Iran in the U.S. was hoping to present her research on women's rights and Islamic law at conferences in Europe, but she has been advised not to travel to those meetings. Similarly, an Iraqi SAR scholar researching journalism in her home country has been advised not to travel abroad to conduct field study. Finally, those currently seeking SAR's assistance may be prohibited from entering the U.S. to accept positions at SAR member institutions. SAR is currently working to arrange positions for 26 such scholars from countries affected by the EO, and the SAR program expects this list to grow. Delay in arranging positions or entry permission poses a great risk to scholars' work and well-being.

B. International Students and Scholars Bolster the American Economy and Strengthen Our Democracy.

The benefits of a free-flowing exchange of scholars and ideas redound well beyond American colleges and universities. The United States reaps tremendous profits—both tangible and intangible—from its colleges’ and universities’ commitment to welcoming academics, researchers, and innovators from around the world.

As a matter of pure economics, the inclusion of international students and scholars at schools like the AAU member institutions produces considerable returns for this country. A recent “NAFSA: Association of International Educators” (NAFSA) study determined that the more than 1 million international students studying at American colleges and universities “contributed \$32.8 billion” to the U.S. economy during the 2015–2016 school year.¹⁷ The same study estimated that, in a single school year, international students created or supported more than 400,000 American jobs. NAFSA found that in New York alone, international students contributed \$3.9 billion to the State and supported nearly 47,000 jobs in 2015–2016.¹⁸ And during the same time frame, international students and their families supported more than 7,000 jobs and contributed nearly \$645 million to the local economy in the Eastern District of New York.¹⁹ Another study credits the steady stream of international students into the United States

¹⁷ *NAFSA International Student Economic Value Tool*, NAFSA, http://www.nafsa.org/Policy_and_Advocacy/Policy_Resources/Policy_Trends_and_Data/NAFSA_International_Student_Economic_Value_Tool/ (last visited Feb. 15, 2017); *see also* Press Release, U.S. Dep’t of State, Inst. of Int’l Educ., IIE Releases Open Doors 2016 Data (Nov. 14, 2016), <http://www.iie.org/Who-We-Are/News-and-Events/Press-Center/Press-Releases/2016/2016-11-14-Open-Doors-Data#.WKC3xk0zXIU> (citing a U.S. Department of Commerce study that estimates the financial contribution to be more like \$36 billion).

¹⁸ *NAFSA International Student Economic Value Tool*, NAFSA, http://www.nafsa.org/Policy_and_Advocacy/Policy_Resources/Policy_Trends_and_Data/NAFSA_International_Student_Economic_Value_Tool/ (last visited Feb. 15, 2017).

¹⁹ *Id.* (aggregating NAFSA data for congressional districts that constitute the Eastern District of New York).

for increases in “transnational business creation” and “trade and direct investment between the United States” and those students’ countries of origin.²⁰

The U.S. economy has been further fueled by foreign-born innovators who came to this country and chose to stay for extended periods of time.²¹ Between 1995 and 2005, foreign-born innovators founded . . . more than 25 percent of [engineering and technology] companies nationwide.²² Those companies, in turn, “produced \$52 billion in sales and employed 450,000 workers.”²³ In the same vein, according to one study by the National Foundation for American Policy (NFAP), “[i]mmigrants have started more than half (44 of 87) of America’s startup companies valued at \$1 billion or more and are key members of management or product development teams in over 70 percent (62 of 87) of these companies.”²⁴ The creation of new companies generates obvious economic benefits for the United States, including considerable job growth. Each \$1 billion startup in the NFAP study has “created an average of approximately 760 jobs . . . in the United States.”²⁵

²⁰ Neil G. Ruiz, Brookings Inst., *The Geography of Foreign Students in U.S. Higher Education: Origins and Destinations 2* (2014), https://www.brookings.edu/wp-content/uploads/2014/08/Foreign_Students_Final.pdf.

²¹ See, e.g., Adams Nager, et al., Info. Tech. & Innovation Found., *The Demographics of Innovation in the United States 5* (2016), http://www2.itif.org/2016-demographics-of-innovation.pdf?_ga=1.256641800.2049822595.1486928220 (suggesting that more than one third of U.S. innovators were born outside of the country, and another 10 percent have at least one parent who was born abroad).

²² Michael Greenstone, Adam Looney & Harrison Marks, *The Hamilton Project, The U.S. Immigration System: Potential Benefits of Reform 4-5* (2012), http://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/05_immigration_greenstone_looney.pdf (hereafter Greenstone).

²³ *Id.* at 5.

²⁴ Stuart Anderson, Nat’l Found. for Am. Policy, *Immigrants and Billion Dollar Startups 1* (2016), <http://nfap.com/wp-content/uploads/2016/03/Immigrants-and-Billion-Dollar-Startups.NFAP-Policy-Brief.March-2016.pdf>.

²⁵ *Id.*

Foreign-born students who study at American educational institutions and then begin working in science, technology, engineering, and mathematics (“STEM”) fields have made particularly significant contributions to the U.S. economy. In 2013, international students accounted for nearly two-fifths (39 percent) of Ph.D. candidates in STEM subjects, and a recent study estimates that the percentage will climb above 50 percent by 2020.²⁶ When these students graduate, approximately 48 percent hope to stay in the United States to work.²⁷ Even with this steady influx of international talent, the pipeline of STEM students in this country is not expected to be wide enough to keep up with the rapidly expanding number of STEM jobs available.²⁸

The recruitment of additional STEM students translates into far larger benefits for the country at large. An increase in the number of STEM workers in a metropolitan area is “strongly associated with higher patents per workers (an indicator of innovation), lower unemployment, a lower rate of job losses during . . . recession[s] . . . , higher exports as a share of gross domestic product (GDP) (a measure of international competitiveness), and higher incomes.”²⁹ The same goes for median household incomes and average wages, both of which tend to be higher “in

²⁶ Xueying Han & Richard P. Appelbaum, Ewing Marion Kauffman Found., Will They Stay or Will They Go?: International STEM Students Are Up for Grabs 3 (2016), http://www.kauffman.org/~media/kauffman_org/research%20reports%20and%20covers/2016/stem_student_s_final.pdf (hereafter Han & Appelbaum). If that growth is impeded, the U.S. will lose talent to other nations.

²⁷ Han & Appelbaum, at 20.

²⁸ Lylah Alphonse, *New STEM Index Find's America's STEM Talent Pool Still Too Shallow To Meet Demand*, U.S. News & World Report (Apr. 23, 2014), <http://www.usnews.com/news/stem-index/articles/2014/04/23/new-stem-index-finds-americas-stem-talent-pool-still-too-shallow-to-meet-demand>.

²⁹ Jonathan Rothwell, Brookings Inst., *The Hidden STEM Economy* 15 (2013), <https://www.brookings.edu/wp-content/uploads/2016/06/TheHiddenSTEMEconomy610.pdf>.

STEM-oriented economies.”³⁰ Consistent with these general trends, one study estimates that “patent activity by high-skilled immigrants in the 1990s increased U.S. GDP per capita” by between 1.4 and 2.4 percent—or \$481 to \$825 per person.³¹

In addition to these economic benefits, the presence of international students and scholars on our AAU member institutions’ campuses has been responsible for some of the most significant STEM advances and accomplishments over the last few decades. To provide just a few among a multitude of examples: Two mechanical engineers from India obtained postdoctoral degrees from an AAU member institution and then went on to invent a system that enables oil businesses to dispose of the waste generated by fracking in a cheaper and cleaner manner. Their technology was named a “top 10 world-changing idea” in 2012.³² Tim Berners-Lee, the English founder of the World Wide Web, refined that technology at MIT, where he still helps direct the W3 Consortium and run the Computer Science and Artificial Intelligence Laboratory.³³ All six Americans to win a Nobel Prize in the sciences in 2016 were born abroad,

³⁰ *Id.* at 16.

³¹ Greenstone, at 5.

³² Kevin Sullivan, *Other Countries Court Skilled Immigrants Frustrated by U.S. Visa Laws*, Wash. Post, Feb. 18, 2013, https://www.washingtonpost.com/national/other-countries-court-skilled-immigrants-frustrated-by-us-visa-laws/2013/02/18/73d9f7ce-7137-11e2-ac36-3d8d9dcaa2e2_story.html?utm_term=.e0fdbf5fce8d (hereafter Sullivan).

Additionally, 113 National Academy of Inventors (“NAI”) Fellows currently at AAU member institutions were born in foreign countries. Fellowship nominees “must be a named inventor on patent(s) issued by the United States Patent and Trademark Office,” and election to the fellowship is based on whether an inventor has “demonstrated a prolific spirit of innovation in creating or facilitating outstanding inventions that have made a tangible impact on quality of life, economic development, and the welfare of society.” *NAI Fellows*, Nat’l Acad. of Inventors, <http://www.academyofinventors.org/fellows.asp> (last visited Feb. 16, 2017). Five of these NAI Fellows are from Iran, one of the countries affected by the EO.

³³ *History of the Web*, World Wide Web Found., <http://webfoundation.org/about/vision/history-of-the-web/> (last visited Feb. 15, 2017); *Tim Berners-Lee*, CSAIL, <https://www.csail.mit.edu/user/769> (last visited Feb. 15, 2017).

but now work on AAU member campuses.³⁴ And one can only imagine how different the American technology landscape would be if Abdul Fattah Jandali—Steve Jobs’s biological father—had not been permitted to enter the United States from his original home in Homs, Syria, to study at the University of Wisconsin-Madison, an AAU institution.³⁵

The United States can ill afford to lose these foreign-born innovators and entrepreneurs to other countries. In a recent interview with an American newspaper, one of the aforementioned Nobel laureates “credited American openness with bringing top scientists to the country.”³⁶ The American scientific community will remain strong only, he said, “as long as we don’t . . . turn our back on immigration.”³⁷

Right now, there is a “global bidding war” for talented international students, particularly in the STEM fields.³⁸ Foreign countries give substantial cash bonuses and other benefits to international scholars to entice them to leave the United States.³⁹ And when the United States has made it harder to get into the country, fewer students and scholars choose to attend our

³⁴ Chris Isidore & Charles Riley, *Harvard and MIT Professors Win Nobel Prize in Economics*, CNN Money (Oct. 10, 2016), <http://money.cnn.com/2016/10/10/news/economy/nobel-prize-economics/>; Josh Fischman, *Molecular Machine-Makers Grab the 2016 Nobel Prize in Chemistry*, Scientific American (Oct. 5, 2016), <https://www.scientificamerican.com/article/molecular-machine-makers-grab-the-2016-nobel-prize-in-chemistry1/>; Dennis Overbye & Sewell Chan, *3 Who Studied Unusual States of Matter Win Nobel Prize in Physics*, N.Y. Times (Oct. 4, 2016), https://www.nytimes.com/2016/10/05/science/nobel-prize-physics-topology.html?_r=0.

³⁵ See Edward C. Baig, *Steve Jobs’ Biological Father Was Syrian Migrant, Some Note*, USA Today (Nov. 17, 2015), <http://www.usatoday.com/story/tech/columnist/baig/2015/11/16/steve-jobs-biological-father-syrian-migrant-some-note/75899450/>.

³⁶ Rafael Bernal, *Amid Debate, All 2016 American Nobel Laureates Are Immigrants*, The Hill (Oct. 10, 2016), <http://thehill.com/latino/300237-all-american-2016-nobel-prize-honorees-are-immigrants>.

³⁷ *Id.* (internal quotation marks omitted).

³⁸ Sullivan, *Other Countries Court Skilled Immigrants Frustrated by U.S. Visa Laws*.

³⁹ *Id.*

universities. After 9/11, for example, our institutions of higher learning saw significant drop-offs in their international populations.⁴⁰ It makes little sense to chase away talented, law-abiding foreign students and scholars when so many other countries are willing to accept them.

Finally, the education of foreign-born students and the collaboration between American students and foreign-born scholars at AAU member institutions present the United States with an opportunity to promote the ideals that, together, make up the social, political, and cultural fabric of this country. International students and scholars who come to the United States to engage on our academic campuses are exposed to our democratic principles and our norms of tolerance and respect. They witness American society's steadfast commitment to human rights, our emphasis on education, and our dedication to the rule of law.

These values, in turn, are transmitted around the world when these individuals depart this country. Juan Manuel Santos, the president of Colombia and the 2016 Nobel Peace Prize winner, holds degrees from two AAU members: the University of Kansas (bachelor's degree in economics and business administration) and Harvard University (master's degree in public administration). The University of Michigan counts the former prime ministers of Antigua, Egypt, Italy, and Peru among its alumni. In the last Indonesian administration alone, the Cabinet included three officials who attended AAU member institutions—the defense minister (University of California-Berkeley), the finance minister (University of Pennsylvania), and the trade minister (University of California-Davis)—plus two officials who attended other American universities.⁴¹ The clear majority—if not all—of the AAU member institutions could boast a

⁴⁰ NAFSA: Ass'n of Int'l Educators, *Restoring U.S. Competitiveness For International Students and Scholars* (2006), http://www.nafsa.org/uploadedFiles/NAFSA_Home/Resource_Library_Assets/Public_Policy/restoring_u.s.pdf.

⁴¹ The justice minister attended American University, and the energy minister attended the University of Colorado School of Mines. Ben Wolfgang, *Armed with U.S. Education, Many*

comparable list of auspicious government officials. These world leaders, along with countless individuals, have come to the United States, engaged in the vigorous exchange of ideas for which this country is known, and then returned to their countries steeped in American democratic principles and culture.⁴²

* * * *

The importance of a free exchange of scholars and ideas that transcends borders is perhaps best expressed by two AAU university presidents—both of whom are immigrants themselves. One traveled west and the other traveled east, but both have made indelible contributions to their chosen academic fields and the institutions that they now lead. NYU President Andrew Hamilton, an organic and biologic chemist, was born in England but moved to the United States several decades ago. Prior to becoming the president of NYU, Hamilton taught at three other AAU member institutions (Yale University, University of Pittsburgh, and Princeton University).⁴³ In a recent statement, Hamilton explained⁴⁴:

As a scientist who studied and worked in four countries before becoming a citizen of the U.S., I know how important it is to be able to move across borders in peaceful pursuit of one's scholarship. I know, too, more than most given my

Leaders Take On World, Wash. Times (Aug. 19, 2012), <http://www.washingtontimes.com/news/2012/aug/19/armed-with-us-education-many-leaders-take-on-world/>.

⁴² The importance of a free-flowing exchange of students, scholars, and ideas is reflected in longstanding federal law and policy. In 1961, the government established a special non-immigrant visa program to encourage young leaders, entrepreneurs, research scholars, and professors to come to the United States and engage in “educational and cultural exchange[.]” U.S. Dep’t of State, J-1 Visa Exchange Visitor Program, *Common Questions*, <https://j1visa.state.gov/basics/common-questions/> (last visited Feb. 2, 2017). This program, called the J-1 Visa Program, expressly instructs visitors who have completed the program to “return to their home country . . . to share their exchange experiences.” *Id.*

⁴³ *Biography*, NYU, <https://www.nyu.edu/about/leadership-university-administration/office-of-the-president/andrew-hamilton-biography.html> (last visited Feb. 15, 2017).

⁴⁴ Letter from Andrew Hamilton, President of NYU, to Members of the NYU Community (Jan. 30, 2017), <http://www.nyu.edu/about/news-publications/news/2017/january/a-message-from-nyu-president-andrew-hamilton-about-the-recent-ex.html>.

background and my field, how much goodwill the U.S. earns for itself through the openness of its education system and how widely those who study here can spread American values.

Carnegie Mellon University President Subra Suresh is an engineer who was born in India but moved to the United States for his postgraduate studies.⁴⁵ Suresh attended three different AAU member institutions (Iowa State University, MIT, and the University of California-Berkeley), before joining the faculty at two other AAU member universities, Brown University and MIT.⁴⁶ Suresh offered sentiments similar to President Hamilton's in a recent letter to his academic community⁴⁷:

The topic of immigration is very personal to me. As I reflected in my inaugural address at CMU in November 2013, I first came to the U.S. at age 21 with a partially filled suitcase, less than \$100 in cash, and a one-way airplane ticket purchased with a loan. Once in the U.S., I was able to pursue a series of extraordinary opportunities for scholarship and service without regard for my national origin—an experience that forged in me an unshakeable faith in the ability of this nation to help everyone to succeed, wherever they came from. This trust in the system was reinforced even more strongly a few years ago when I was nominated by the President of the United States to lead the National Science Foundation and was unanimously confirmed by the United States Senate, without partisan considerations and without regard to my national origin.

My own story is just one among millions that have shaped the history of this country. Immigration and international collaboration are not footnotes in the story of higher learning. Andrew Carnegie, CMU's founder and such a central figure in America's industrial dominance during his time, was an immigrant. . . . Tens of thousands of foreign-born students, researchers, scholars, innovators and faculty members across the country, including many at CMU, do pioneering work at the cutting-edge of science, technology and artistic creativity. The point is clear: our very prosperity and security as a nation, and thus our freedom, depend in part on the people who come to this country from around the world.

⁴⁵ *Biography*, Carnegie Mellon University, <https://www.cmu.edu/leadership/president-suresh/bio/> (last visited Feb. 15, 2017).

⁴⁶ *Id.*

⁴⁷ Letter from Subra Suresh, President, Carnegie Mellon University, to Members of the Carnegie Mellon University Community (Jan. 31, 2017), <http://www.cmu.edu/leadership/president-suresh/campus-comms/2017/2017-01-31.html>.

These two leaders embody the impact that international students and scholars can have on educational institutions like those in AAU. Their stories capture what our country stands to lose if we begin making it harder for people like them to come to the United States to learn and to teach.

II. The Executive Order Directly Threatens Academic Exchange with International Students and Scholars.

By “suspend[ing] entry into the United States, as immigrants and nonimmigrants,” of persons from Iran, Iraq, Syria, Sudan, Yemen, Libya, and Somalia for at least 90 days, EO § 3(c), the EO prevents visa-holding students, faculty and researchers from participating in the open academic exchange that is so vital to modern higher education and our national interests. According to the Institute of International Education,⁴⁸ in 2015–2016, approximately 17,300 students and 2,300 professors or researchers in the United States came from one of the seven countries specified in the EO:

	Number of Students	Number of Scholars	Total Students and Scholars
Iran	12,269	1,891	14,160
Iraq	1,901	171	2,072
Libya	1,514	49	1,563
Somalia	35	0	35
Sudan	253	32	285
Syria	783	145	928
Yemen	599	19	618
Total	17,354	2,307	19,661

⁴⁸ Elizabeth Redden, *A Closing of America*, Inside Higher Ed, Jan. 26, 2017, <https://www.insidehighered.com/news/2017/01/26/draft-executive-order-would-call-banning-entry-individuals-some-countries>.

All 60 of AAU's United States members have students and scholars from these affected countries. Even more strikingly, as Appendix B demonstrates, a cross section of just over one-third of the AAU member institutions still totals more than 2,000 students from the seven affected countries. And as Appendix C shows, the 21 schools for whom AAU has data collectively count more than 500 scholars from the seven affected countries. For example:

- Boston University: 97 students and 16 scholars⁴⁹;
- Brandeis University: 12 students and 10 scholars;
- Carnegie Mellon: 30 students and 2 scholars;
- Iowa State University: 115 students and 10 scholars;
- MIT: 47 students and 69 scholars;
- Purdue University: 104 students and 12 scholars;
- The Ohio State University: 79 students and 15 scholars;
- The University of California-Berkeley: 94 students and 16 scholars;
- The University of Florida: approximately 200 students, faculty, and staff⁵⁰;
- The University of Kansas: 88 students and 6 scholars;
- The State University of New York (SUNY) at Buffalo: 122 students and 40 scholars;
- The University of Texas at Austin: a combined 110 students and scholars.⁵¹

⁴⁹ The data for Boston University, Brandeis University, and MIT is taken from: *Louhghalam v. Trump*, No. 1:17-cv-10154-NMG (D. Mass), ECF No. 68

⁵⁰ Statement on Immigration Executive Order by W. Kent Fuchs, President, University of Florida, <http://president.ufl.edu/updates/2017/01/statement-on-immigration-executive-order.html>

⁵¹ Message from President Fennes on Recent Executive Order, http://president.utexas.edu/messages/recent-executive-order?utm_source=facebook&utm_medium=referral&utm_campaign=UTAustinSocial.

AAU members also host and employ many nationals of the seven specified countries, including:

- An activist and journalist who helped galvanize Yemeni support for the Arab Spring and has been appointed a visiting lecturer on public policy;
- A Syrian trauma surgeon who was instrumental in coordinating NGO support for medical care to casualties of the civil war and is now assessing the relative availability and quality of trauma care at Syrian hospitals;
- An Iranian professor who previously worked at a leading European architectural firm, taught throughout Europe, and received numerous awards and appointments for her contributions to the field;
- A Sudanese medical professor (and practicing physician at a local hospital) who has received awards and public acclaim for her work on female genital cutting;
- A Syrian professor and recipient of a MacArthur “Genius” grant who has, among other things, founded a company that develops systems to monitor vital signs to detect the onset of illness in the elderly;
- An Iranian medical professor who has developed novel methods for studying the long-term risks of myocardial infarction and stroke following blood infection;
- A Syrian neuroscientist who researches the neurobiology of pain, anxiety, depression, and substance abuse, is co-director of a respected institute on molecular and behavioral neuroscience, and has been elected to the National Academy of Science; and
- An Iranian mathematician who was the first woman to win the Fields Prize, the most prestigious prize in mathematics.

Talented students and scholars like these have felt the EO’s negative effects during the past three weeks.

A. Students and Scholars at AAU Member Universities Have Been Directly Impacted by the EO.

From the moment the EO was signed, hundreds of students and scholars at AAU universities were either locked out of or locked into the United States. Many members of our academic communities who were outside of the United States at the time the EO was signed were barred from returning to the United States to continue their studies and work. These

include undergraduates who were simply trying to return to campus after spending their winter breaks with their families.⁵²

They also include graduate students who hoped to continue their advanced study and research at AAU member institutions. For instance, an Iranian Ph.D. student in Applied Mathematics and Statistics recently accepted a Postdoctoral Scholar appointment from the University of Chicago, but after consulting with the United States Embassy, he was told that the EO barred his entry. This student has declined offers from universities in Canada and the United Kingdom, and it is too late for him to continue his studies in those countries. In another case, a research scientist at Brandeis University who holds a Ph.D. in theoretical physics received a fellowship from the New England Complex Systems Institute to study the behavior of complex social networks. That scholar had planned to arrive shortly after the EO issued, but was forced to temporarily remain in Iran because of the EO. Similarly, Carnegie Mellon University has an Iranian Ph.D. student who is studying for his dual degree at a partner institution outside of the United States; if the EO remains in place, he will be unable to return to Pittsburgh for his qualifying exams and to complete his degree. In a fourth case, an Iranian Ph.D. student was scheduled to arrive for classes at the University of California-Davis in March, but his ability to return is now in doubt. And another Iranian researcher with a joint appointment at Harvard

⁵² See, e.g., Stephanie Ebbert, *MIT Engineering Student From Iran Not Allowed To Reenter US*, Boston Globe (Jan. 31, 2017), <http://www.bostonglobe.com/metro/2017/01/31/mit-engineering-student-from-iran-barred-entry-into/fQBJ7kLihY7P79YNKVKtTN/story.html>; Anya Kamenetz, *Students Stranded Worldwide By Trump Order*, NPR (Jan. 30, 2017), <http://www.npr.org/sections/ed/2017/01/30/512431112/students-stranded-worldwide-by-trump-order>.

Medical School and Brigham & Women's Hospital was unable to board a flight from Zurich to Logan Airport, and was forced to file a lawsuit to gain entry to start her work.⁵³

In some cases, these students and scholars eventually were able to enter the United States following court-ordered injunctions in other judicial districts.⁵⁴ But if that relief is lifted, many others like them will be stranded abroad.

Just as many individuals have been kept out of the United States in the wake of the EO, others are effectively locked in. Those scholars and students from the seven countries covered by the EO who were lucky enough to be in the United States when it was issued can no longer confidently travel outside the United States and expect reentry. This means that despite having valid visas, faculty members from these seven countries cannot visit families abroad, attend international academic conferences, give lectures to colleagues at sister universities, or conduct field research in foreign nations.

For example, a professor at an AAU member institution previously taught at universities around the world and has maintained close ties with her foreign academic colleagues, who are important to her creativity and work. The EO struck a sudden, significant blow to these connections, casting in doubt the professor's ability to present as scheduled at upcoming conferences overseas, because her return to the United States is not guaranteed. She is also concerned about traveling abroad to visit and care for her mother, who is terminally ill, while the EO remains in place. Other professors have faced similar obstacles since the EO was issued.

⁵³ See Milton J. Valencia, *Boston-Bound Iranian Scientist with Visa Sues US over Ban*, Boston Globe (Feb. 2, 2017), <https://www.bostonglobe.com/metro/2017/02/01/iranian-scientist-with-visa-and-bound-for-boston-sues-over-ban/v0rRMlatsOfTTzY0sr8EvL/story.html>.

⁵⁴ See, e.g., Sidney Lee, *Iranian Student Finally Returns*, CNHI News Oklahoma, Feb. 6, 2017, http://www.chickashanews.com/oklahoma/news/iranian-student-finally-returns/article_b1703e5a-71fd-511c-a30b-9e2c7394c081.html.

Equally to the point, students cannot pursue their own research in foreign libraries and laboratories, participate in study-abroad programs, or attend satellite campuses in other countries.⁵⁵ Nor can they travel home for personal reasons, whether to celebrate a family member's marriage or to mourn a loved one's death at a funeral. For example, a Ph.D. student at

⁵⁵ AAU members have invested significant resources in study-abroad programs, foreign satellite campuses, and global experiential learning opportunities. For example, New York University has global campuses in places like Abu Dhabi, Tel Aviv, and Shanghai; each year, more than 3,000 NYU undergraduate students choose to study abroad at one of these locations. *See Studying Abroad*, New York University, <http://www.nyu.edu/academics/studying-abroad.html>. Similarly, the University of California-Berkeley is building a "Berkeley Global Campus (BGC)," which will serve as an "international hub in which an exclusive group of some of the world's leading universities and high-tech companies will work side-by-side in a campus setting." Nicholas B. Dirks, *Leading a Global Transformation of the American Research University*, Huffington Post, Mar. 23, 2015, http://www.huffingtonpost.com/nicholas-b-dirks/leading-a-global-transfor_b_6517758.html. "Along with its research mission, the BGC will have a strong educational component, centered on a Global College for Advanced Study that offers both undergraduate and graduate-level academic programs for U.S. and international students. The Global College will be a living laboratory designed to support interdisciplinary, international and public and private solutions for key 21st-century challenges in fields such as energy, computing, robotics, the environment, public health, and the global economy." *Id.* In connection with this new campus, Berkeley will be offering expanded study-abroad programs for its undergraduates, including new opportunities "to study at the overseas campus of a BGC-affiliated university, followed by completion of research-intensive studies at that university's site at the BGC." *Id.* MIT's Sloan Management School allows students to enroll in "Action Learning Labs," where they are assigned to real-world company partners and work on projects for those companies, often on-site, during an academic term. The school offers Labs in China, India, and Israel, as well as a Global Entrepreneurship Lab, in which students are sent to emerging markets across the globe, "from Argentina to Zambia." *Action Learning*, MIT-Sloan, <http://mitsloan.mit.edu/actionlearning/labs/g-lab-info-for-hosts.php/> (last visited Feb. 13, 2017). Finally, the Human Rights Program at Harvard Law School works to protect the rights of clients and communities around the world through a variety of international projects. *See Human Rights@Harvard Law*, <http://hrp.law.harvard.edu/> (last visited Feb. 13, 2017). The Program's clinical projects regularly involve work in several of the countries identified in the EO. For example, in the past five years, the Clinic has undertaken work related to the threat posed to civilians in Libya by abandoned weapons. More recently, one clinical project has been engaging with the challenges that Syrian refugees living outside refugee camps encounter when attempting to obtain official documents from the government of Jordan. Over the past year, another ongoing clinical initiative focused on climate change displacement and included a case study on Somalia.

By placing undue restrictions on the free flow of students and scholars, the EO imperils the success of innovative international programs like these and the many others at AAU member universities.

Boston University was scheduled to travel home to conduct interviews and research that are critical to his dissertation. He has now cancelled his trip due to the EO and the uncertainty of being able to return to the U.S. He is working with his dissertation advisor to evaluate how to formulate a new dissertation topic, which will significantly delay the completion of his Ph.D. In addition, two Iranian graduate students who are studying global health at an AAU member institution may not be able to complete field research and training because of the EO's travel ban. And one Harvard graduate student recently published an eloquent editorial in the *New York Times*—worth reading in its entirety—describing his fears about leaving the country and his sorrow about the effects that the EO will have on “thousands who, unlike me, might never get to experience America at its best.”⁵⁶ These examples demonstrate the severe effects of the EO on universities across the country.

Fruitful academic exchange does not occur only abroad. It also takes place within the United States. Foreign scholars frequently travel to AAU universities for conferences and to collaborate with academic and research colleagues. For example, the EO has impacted the Columbia Law School Human Rights Clinic's efforts to research the mental-health effects associated with the violent conflict in Yemen. The Clinic had been organizing an interdisciplinary workshop to be held in New York, which would have brought together leading researchers from Yemen, the United States, and other countries to design a new study to

⁵⁶ Ziad Reslan, *Harvard Student: 'I Worry If I Leave, I Won't Be Let Back In'*, N.Y. Times (Feb. 2, 2017), https://kristof.blogs.nytimes.com/2017/02/02/harvard-student-i-worry-if-i-leave-i-wont-be-let-back-in/?_r=2.

investigate and improve mental health in Yemen. Because of the EO, the Clinic has taken steps to move the workshop to Canada.⁵⁷

The EO also burdens foreign academics who wish to come to the United States to foster collaborative study. More than 43,000 American scholars—including 62 Nobel Laureates; 146 recipients of prestigious awards like the Fields Medal, Pulitzer Prize, and MacArthur Fellowship; and 521 Members of the National Academies of Sciences, Engineering, and Arts—explained in an online petition that the “EO limits collaborations with researchers from these nations by restricting entry of these researchers to the US and can potentially lead to departure of many talented individuals who are current and future researchers and entrepreneurs in the US.”⁵⁸ The loss of this talent to AAU member institutions and the nation would be incalculable. These accomplished scholars therefore conclude: “We strongly believe the immediate and long term consequences of this EO do not serve our national interests.”⁵⁹

B. The EO Will Have Continuing Adverse Effects on Open Academic Exchange and, by Extension, Our National Interests.

In addition to the direct effects on existing students and scholars, the EO promises to have deleterious effects on critical academic exchange. Shortly after the EO was enacted, for example, more than 3,000 international scholars signed a petition to “boycott international academic conferences held in the United States in solidarity with those affected by” the EO.⁶⁰

⁵⁷ Collin Binkley, *Travel Ban Throws Research, Academic Exchange into Turmoil*, Associated Press (Jan. 31, 2017), <http://abcnews.go.com/Technology/wireStory/travel-ban-throws-research-academic-exchange-turmoil-45169418>.

⁵⁸ *Academics Against Immigration Executive Order*, <https://notoimmigrationban.com/> (last visited Feb. 12, 2017) (hereafter *Academics Against Immigration Executive Order*).

⁵⁹ *Id.*

⁶⁰ Elizabeth Redden, *Boycotting the U.S.*, Inside Higher Ed (Jan. 31, 2017), <https://www.insidehighered.com/news/2017/01/31/protest-trump-entry-ban-some-scholars-are-boycotting-us-based-conferences>.

This proposed boycott was not a hollow threat. For example, the International Studies Association, one of the oldest interdisciplinary associations dedicated to understanding international, transnational, and global affairs, is scheduled to host its annual conference in late February in Baltimore. However, many foreign participants pulled out of this conference as part of the international boycott, and the Association was forced to announce that it “will refund registration fees and waive any penalties for those who are unable to attend the annual meeting or choose not to attend as a result of the U.S. Executive Order on Immigration.”⁶¹ Although many AAU member institutions have opposed the boycott as counterproductive, its influence is incontrovertible. The scholars who have refused to attend U.S. conferences have already had a powerful impact—and undoubtedly will continue to do so for as long as the boycott remains in effect.

Foreign institutions also have started cancelling their own conferences in response to the EO. For example, a conference sponsored by the Association for the Study of Persianate Societies was scheduled to take place in Shiraz, Iran, in March, but it could not proceed due to the travel difficulties posed by the EO and the related uncertainty around who (if anyone) would be able to attend.⁶² Many American professors had planned to participate in the conference to

⁶¹*Update on Remote Participation and Travel Concerns for Baltimore*, Int’l Studies Ass’n (Feb. 6, 2017), <http://www.isanet.org/News/ID/5416/Update-on-Remote-Participation-and-Travel-Concerns-for-Baltimore>; see Redden, *Boycotting the U.S.*

⁶² Letter from Ghazzal Dabiri, 2017 Conference Chair, Ass’n for the Study of Persianate Societies to Friends and Colleagues, <http://www.persianatesocieties.org/index.php/conventions/asps-biennial-convention-shiraz-2017> (“As many of you are aware, in a measure-for-measure response to President Trump’s executive order of Friday, January 27, 2017, the Government of Iran announced on Saturday, January 28, that it would no longer issue any visas to American citizens for an initial period of 90 days and beyond it as long as the US ban remains in effect. . . . As the American scholars constitute the bulk of non-Iranian attendees at the Convention, we are forced to cancel it at this late stage.”).

consult with academic colleagues in that unique field of study. They now will be unable to do so.

It is difficult to overstate the importance of conferences, colloquia, and symposia to scholarly communication. They enable intellectual give-and-take and real-time digestion and discussion of research. Conferences also allow for in-person encounters and discussions that give rise to important future collaborations. This kind of face-to-face collaboration is particularly important to scientific research. As Rush Holt, the CEO of the American Association for the Advancement of Science, has stated: “Freedom of communication is absolutely essential for science to function. . . . It’s not just nice for people to attend conferences and communicate in person, it’s part of the practice of science. And being able to have scientists from diverse backgrounds and viewpoints, that’s essential to the practice of good science.”⁶³ The prospect of barred entry, and of retaliation and boycotts, means lost opportunities for the expansion of knowledge and scientific discovery. And American universities risk being removed from the epicenter of where cutting-edge ideas are discussed. The EO puts all of these benefits in jeopardy.

The EO also will impair AAU member institutions’ ability to recruit foreign faculty and scholars. Collectively, AAU member universities already employ dozens of faculty members from the seven nations currently covered in the EO. But the aforementioned petitioning scholars offer a powerful reason why foreign academics may be unwilling to teach at an American university in the future:

⁶³ Chelsea Whyte, *Trump’s Travel Ban Is Already Stopping Scientific Collaboration*, New Scientist (Jan. 31, 2017), <https://www.newscientist.com/article/2119910-trumps-travel-ban-is-already-stopping-scientific-collaboration/>.

The implementation of this EO will necessarily tear families apart by restricting entry for family members who live outside of the US and limiting the ability to travel for those who reside and work in the US.⁶⁴

Given those working conditions, many scholars will choose not to teach in this country. One AAU member's current recruit to fill a full-time faculty position has disclosed that he is married to a national from one of the seven countries covered in the EO; that recruit has expressed concerns about accepting a position in light of the EO. Another member university identified an Iranian scholar as the best candidate for an Assistant Professor position, but it is uncertain whether that scholar will be permitted to enter the country and work here. The suspension of visa processing under the EO may have further financial implications for our scholars through the disruption of research funding and the loss of job opportunities if they are unable to obtain or extend work authorizations. Universities across the country will lose highly competitive candidates from the affected countries to institutions outside of the United States if the EO remains in effect.

In addition, the EO will prevent AAU member universities from attracting and educating the best and brightest foreign students. For example, while the regular admissions process is still underway at MIT, at least two prospective students from the identified countries have already been admitted for the fall via early action. One, an 18-year-old from Damascus, was reported on in the media.⁶⁵ After dreaming for years of earning an engineering degree from MIT, the student was recently accepted for the class of 2021. But when the EO was signed, his ability to attend MIT became uncertain. As he puts it: "My dreams are basically ruined."⁶⁶ Regrettably, this

⁶⁴ See *Academics Against Immigration Executive Order*.

⁶⁵ See Justin Lear, *A Syrian Teen Was Headed to MIT and Then Came the Ban*, CNN (Jan. 29, 2017), <http://www.cnn.com/2017/01/29/us/mit-syria-student-ban-trnd/>.

⁶⁶ *Id.*

young man is not the only talented applicant whose dreams may be dashed. A top candidate for the University of Rochester's Eastman Institute of Oral Health's ("EIOH") Advanced Education for General Dentistry program recently turned down an offer of admission, explaining that the EO made it difficult to justify uprooting his family at this time. Decisions like these will adversely affect not only the University of Rochester, but also the wider community. EIOH is one of New York State's largest providers of oral health care for Medicaid recipients and the uninsured, and this loss will impact care for vulnerable patient populations. Uncertainty about the number of students who will actually accept offers of admission, moreover, throws a wrench into the carefully calibrated admissions decisions that are currently taking place at AAU member institutions across the country.

In addition to concerns about a drop in the number of international students who are able to matriculate at AAU member institutions, the schools also justifiably fear a decline in the number of applications they will receive. A recent article reported that university administrators are already seeing a precipitous and unprecedented drop in the number of applications to graduate programs in engineering.⁶⁷ That article explains that "[u]niversity administrators worry that the declines, as much as 30% from 2016 levels in some programs, reflect heightened fears among foreign-born students that the United States is tightening its borders."⁶⁸ It would not be surprising if other courses of study at both the undergraduate and graduate levels experience similar declines.

Finally, the sheer uncertainty of the current situation likely will deter students, scholars, and faculty from countries *not* currently covered by the EO from travelling to and from the

⁶⁷ Jeffrey Mervis, *Drop in Foreign Applicants Worries U.S. Engineering Schools*, Science (Feb. 14, 2017), <http://www.sciencemag.org/news/2017/02/drop-foreign-applicants-worries-us-engineering-schools>.

⁶⁸ *Id.*

United States for academic purposes. To take just one example, the University of Rochester's Division of Solid Organ Transplantation recently hired a Saudi Arabian hepatologist who is now concerned about his future here. What is more, the Division's Chief of Solid Organ Transplantation, a Mexican national, is a world-renowned liver-transplant surgeon. He has recruited an international team to join him (including the doctor from Saudi Arabia). In the six months that he has been at the University of Rochester, the surgeon has doubled the number of liver transplants performed at the university's medical center. His work is especially important, as New York State has a severe liver shortage. The EO puts that work—and this surgeon's ability to attract the talented foreign doctors who assist him in it—in severe jeopardy, even though he and his colleagues do not hail from the seven countries listed in the EO. In fact, he has standing invitations to give talks at conferences in Canada, Argentina, Germany, and the Czech Republic in the coming months, but he has put them on hold out of fear that the ban will be expanded or that he will face increased scrutiny returning to the country.

These fears are understandable. Although there are reportedly no plans in place to add to the list of restricted countries, the EO provides for this possibility, and high-ranking Executive Branch officials have suggested that an expansion may well occur in the future.⁶⁹ Given this volatility, individuals from a wide range of nations may fear—quite reasonably—that their country might be the next addition to the list. Foreign scholars and students may not be willing to risk being stranded here or abroad, even if they must instead change plans and go elsewhere to gain an education, engage young minds, conduct research, or perform vital medical services at teaching hospitals. AAU thus supports any legal measure that will mitigate that risk, provide

⁶⁹ See Face the Nation Transcript, Jan. 29, 2017, <http://www.cbsnews.com/news/face-the-nation-transcript-january-29-2017-priebus-mccain-ellison/> (“Now, you can point to other countries that have similar problems, like Pakistan and others. Perhaps we need to take it further.”).

much-needed clarity in these uncertain times, and restore confidence to those who travel to and from American research universities every day.

CONCLUSION

AAU member universities are on the leading edge of innovation, scholarship, and solutions that contribute to the nation's economy, security, and well-being. AAU has submitted this brief to demonstrate the serious effects the EO has had on American universities in the weeks since it was issued. In light of those effects and for the foregoing reasons, AAU respectfully submits that Petitioners' requested relief should be granted.

February 16, 2017

Respectfully submitted,

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APPENDIX A

International Students and Scholars at AAU Institutions^{**†}		
Institution	Total International Students	Total International Scholars
Boston University	8,455	1,361
Brandeis University	1,676	
Brown University	1,842	
California Institute of Technology	828	
Carnegie Mellon University	7,051	173
Case Western Reserve University	2,447	
Columbia University	12,740	3,082
Cornell University	6,008	1,145
Duke University and Medical Center	3,747	1,777
Emory University	2,783	1,035
Georgia Institute of Technology	5,979	1,064
Harvard University	5,679	4,951
Indiana University - Bloomington	7,159	552
Iowa State University	4,636	621
Massachusetts Institute of Technology	4,575	2,408
Michigan State University	8,256	1,137
New York University	15,543	1,257
Northwestern University	5,062	1,431
Princeton University	2,034	1,114
Purdue University - West Lafayette	10,563	1,323
Rice University	1,956	883
Rutgers University - New Brunswick	6,040	1,127
Stanford University	5,107	3,512
SUNY Stony Brook University	5,609	
University at Buffalo - The State University of New York	7,026	923
Texas A&M University - College Station	6,940	
The Johns Hopkins University	5,058	2,625
The Ohio State University	7,117	1,834
The Pennsylvania State University	8,084	1,350
The University of Arizona	4,956	1,751
The University of Chicago	3,869	1,302
The University of Iowa	4,540	474
The University of Kansas	2,592	290
The University of Texas - Austin	6,069	1,620
The University of Wisconsin - Madison	6,440	1,840

Tulane University	1,531	
University of California - Berkeley	7,313	3,399
University of California - Davis	5,381	2,202
University of California - Irvine	5,647	1,256
University of California - Los Angeles	11,513	3,512
University of California - San Diego	7,556	2,853
University of California - Santa Barbara	2,557	567
University of Colorado Boulder	2,951	
University of Florida	6,751	1,527
University of Illinois at Urbana-Champaign	12,085	2,083
University of Maryland - College Park	5,802	1,309
University of Michigan - Ann Arbor	7,630	3,155
University of Minnesota - Twin Cities	7,037	1,844
University of Missouri - Columbia	2,990	938
University of North Carolina - Chapel Hill	2,025	1,372
University of Oregon	4,139	
University of Pennsylvania	6,221	1,796
University of Pittsburgh - Pittsburgh	3,946	1,768
University of Rochester	3,432	
University of Southern California	13,340	1,629
University of Virginia	2,573	
University of Washington	8,259	
Vanderbilt University	1,561	
Washington University in St. Louis	3,047	1,208
Yale University	3,089	2,565
Total for AAU Institutions	283,286	82,121

* Most of the data in this chart was drawn from the 2016 Open Doors Report on International Educational Exchange. The report is available at: http://www.iie.org/Research-and-Publications/Open-Doors/Data#.WKSIB03rtD_.

† For institutions with fewer than 1,000 international scholars, data was either provided by the institution directly to AAU or is publicly available on the institution's website. The data reported is for the most recent year available that complies with the Institute of International Education's definition of international students and scholars.

‡ Blanks in this chart reflect unavailable data, not the number zero. The total number of international students and scholars at AAU member institutions is therefore almost certainly higher than the total reflected in this chart.

APPENDIX B

Students from the Countries Affected by the Executive Order^{*†}								
	Iran	Iraq	Libya	Somalia	Sudan	Syria	Yemen	Total
Carnegie Mellon University	29	1	0	0	0	0	0	30
Cornell University	57	1	0	0	2	4	0	64
Georgia Institute of Technology	139							149
Harvard University	24	2	0	1	1	8	1	37
Iowa State University	101	5	7	0	0	1	1	115
Northwestern University	45	0	0	0	0	2	1	48
Purdue University - West Lafayette	94	0	3	0	0	5	2	104
Rice University	32	0	0	0	0	0	0	32
Texas A&M University - College Station	174	38	4	0	2	1	0	219
The Ohio State University	62	1	16	0	0	0	0	79
The University of Chicago	23	0	0	0	0	2	0	25
The University of Kansas	52	30	4	0	0	1	1	88
University at Buffalo (SUNY)	110	2	0	0	1	7	2	122
University of California - Berkeley	85	1	0	2	3	3	0	94
University of California - Davis	98	22	3	0	1	3	3	130
University of California - Irvine	120	1	0	0	2	4	0	127
University of California - Los Angeles	189	12	0	0	2	21	2	226
University of California - San Diego	76	2	1	0	1	1	0	81
University of California - Santa Barbara	62	4	0	0	0	5	0	71
University of Maryland - College Park	165	8	0	0	1	6	0	180
University of Minnesota - Twin Cities	89							
University of Missouri - Columbia	51	79	9	0	0	1	1	141
Yale University	14	1	0	1	1	1	0	18

* The data in this chart was gathered through a survey that AAU circulated to all of the AAU member institutions and/or from websites maintained by AAU member institutions.

† Blanks in this chart reflect unavailable data, not the number zero.

APPENDIX C

Scholars from the Countries Affected by the Executive Order^{*†}								
	Iran	Iraq	Libya	Somalia	Sudan	Syria	Yemen	Total
Carnegie Mellon University	2	0	0	0	0	0	0	2
Cornell University	20	0	1	0	0	2	0	23
Georgia Institute of Technology	36							38
Harvard University	62	0	0	0	1	3	1	67
Iowa State University	8	1	0	0	0	1	0	10
Northwestern University	22	0	0	0	0	0	0	22
Purdue University - West Lafayette	12	0	0	0	0	0	0	12
The Ohio State University	15	0	0	0	0	0	0	15
The University of Chicago	2	0	0	0	0	1	0	3
The University of Kansas	4	0	0	0	1	0	1	6
University at Buffalo (SUNY)	38	0	1	1	0	0	0	40
University of California - Berkeley	15	1	0	0	0	0	0	16
University of California - Davis	23	0	0	0	0	0	0	23
University of California - Irvine	4	0	0	0	0	1	0	5
University of California - Los Angeles	14	0	0	0	0	1	0	15
University of California - San Diego	25	0	0	0	0	0	0	25
University of California - Santa Barbara	9	0	0	0	0	0	0	9
University of Maryland - College Park	160	6	0	0	1	0	2	169
University of Minnesota - Twin Cities	23			0			0	
University of Missouri - Columbia	9	5	0	0	0	1	0	15
Yale University	18	0	0	0	0	0	0	18

^{*} The data in this chart was gathered through a survey that AAU circulated to all of the AAU member institutions and/or from websites maintained by AAU member institutions.

[†] Blanks in this chart reflect unavailable data, not the number zero.

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2017, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Eastern District of New York by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: February 16, 2017

Respectfully submitted,

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