

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOHNS HOPKINS UNIVERSITY;

Plaintiff,

v.

**U.S. DEPARTMENT OF HOMELAND
SECURITY;**

**U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;**

CHAD WOLF, in his official capacity as
Acting Secretary of the U.S. Department of
Homeland Security; and

MATTHEW ALBENCE, in his official
capacity as Acting Director of the U.S.
Immigration and Customs Enforcement;

Defendants.

Case No. 20-cv-1873

DECLARATION OF ELLEN MACKENZIE

I, Ellen MacKenzie, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I serve as Dean of the Johns Hopkins Bloomberg School of Public Health (the “Bloomberg School” or our “School”) and am a Bloomberg Distinguished Professor. As Dean of the Bloomberg School, I am responsible for leading an organization that includes over 700 full-time faculty working in 130 countries and teaching more than 2,600 students from 79 nations. Our School seeks lifesaving solutions across a broad range of issues from chronic and infectious disease prevention to immunology, nutrition and child survival. Our School’s vision is: Protecting Health, Saving Lives—*Millions at a Time*.

2. I hold a Ph.D. from Johns Hopkins Bloomberg School of Public Health, a Master of Science from Johns Hopkins Bloomberg School of Public Health, and a Bachelor of Arts from Douglass College of Rutgers University.

3. Before being appointed Dean, I served as professor, department chair and Senior Associate Dean for Academic Affairs at the Bloomberg School. I joined the School's Health Policy and Management faculty in 1980, with a joint appointment in the Department of Biostatistics. I am a Bloomberg Distinguished Professor and in addition to my Bloomberg School appointments, I hold faculty appointments in the School of Medicine's departments of Orthopedic Surgery, Emergency Medicine and Physical Medicine and Rehabilitation.

4. I am directly involved in, and oversee, the efforts to devise and implement the academic program of the Bloomberg School in light of the COVID-19 pandemic. Along with faculty and fellow senior administration at the Bloomberg School—including members of the Office of Academic Affairs—I have worked diligently since March to maintain the high quality of a Bloomberg School education, to enable degree-seeking students to progress from admission to graduation and provide certificate and training programs to public health professionals from around the world so they can continue to contribute to the public's health in their country. Specifically, I am integrally involved in the School's Fall Teaching Planning Working Group, the Incident Command and Business Continuity Teams, the Enrollment 2020 Work Group and the Online Investment Initiative. I also provide leadership for the standing committees where decisions are made regarding our teaching programs, including our Committee of the Whole, the Advisory Board for the School, and the Management and Finance Committees. At the University level I meet at least weekly with the leadership of the University and serve on the University Pandemic Academic Advisory Committee (UPAAC). Since March, I have personally

spent at least 50% of my 12-14 hour days planning and strategizing how best to structure our academic programs for the coming fall 2020 semester. The real work, however, is borne by the many members of our faculty and staff who collectively design and run over 90 programs in the School. These include 12 Academic Chairs, 80 Program Heads, 12 Academic Coordinators, the 25 members of our Committee on Academic Standards, the 35 staff of our Center for Teaching and Learning, and the 20 staff in our offices of Academic and Student Services who have been working directly on plans for teaching this fall. Finally, individual faculty and their assistants are working tirelessly to prepare for teaching 420 courses and seminars this fall.

Curricular Planning Efforts at the Bloomberg School Before July 6, 2020

5. As a result of the painstaking and careful planning by the leadership of the School of Public Health, we determined—as recently as Monday, July 6, 2020—that the interests of our students, faculty, and mission would be best served by adopting an entirely online and virtual curriculum for the fall 2020 semester. We envisioned a “virtual campus,” that would take advantage of the very best the digital environment has to offer. In addition to classes that would combine synchronous (real time) and asynchronous (available on demand) instruction that maximizes faculty and student engagement, students would have access to a full array of opportunities to connect both inside and outside the classroom. Students would learn as though they were right here in Baltimore and not physically distanced: taking classes, attending a noon-time seminar, joining a study group to prepare for a final exam, meeting with their advisor, reaching out to a teaching assistant for extra help, participating in a research project or practice activity, connecting with alumni and accessing our career services, and perhaps most importantly, getting to know our faculty and their fellow students who become lifelong colleagues and friends.

6. The Bloomberg School leadership adopted these remote learning plans for several reasons. *First*, safety considerations needed to factor into our decisions as we responded to the marked resurgence of the COVID-19 virus across the United States, as tracked carefully by the University's own Coronavirus Resource Center. The health and lives of our students (who, as graduate students, are often older, mid-career professionals) and faculty (over a third of whom are over age 60), can be appropriately protected by reducing in-person coursework to the levels appropriate for the risks identified at a particular point in time. During the onset of COVID-19, for example, we concluded that in-person coursework should be avoided altogether. *Second*, because our students and faculty are emerging or established public health professionals, preserving their well-being furthers our School's public health mission worldwide, including the fight against the COVID-19 pandemic. *Third*, our School has an established record of successfully offering online programs, and we could draw on this extensive experience in extending remote learning offerings. *Fourth*, it was our judgment that remote learning offers a variety of enhanced pedagogical benefits when compared to a distanced in-person environment that requires masks. For instance, virtual conference applications such as Zoom can facilitate meaningful real-time dialogue in a way that large lectures often cannot, especially when in-person learning must occur with physical distancing measures in place. Student-faculty interactions, such as reviewing mathematical calculations or programming language, can be enhanced if faculty can check students' work directly through a camera, but such review would be impracticable in a masked, distanced environment. We have invested substantial resources to create streaming studios within the building, to enhance the interactivity of online lectures, and are confident in the quality of the education our online experience would provide. *Fifth*, we believe that offering a completely online, virtual campus would ensure equity in learning

opportunities for students regardless of their individual and family circumstances, their nationality, or their underlying risks for infection and disease.

7. Part of the basis for our planning has been the Bloomberg School's reliance on the March 13, 2020 guidance issued by the Student and Exchange Visitor Program ("SEVP"), pursuant to which I understand the United States Immigration and Customs Enforcement ("ICE") issued an "exemption" to a preexisting rule that students in the country on F-1 visas must attend most classes in person. With this exemption, ICE provided that students holding F-1 visas could attend classes remotely while retaining their visa status for the duration of the COVID-19 emergency. I and others at the Bloomberg School relied on the application of this March 13 guidance in structuring our upcoming curriculum—which we felt best protected the public health needs of our students, faculty and staff in light of the ongoing pandemic.

The July 6, 2020 Directive

8. On July 6, 2020, I and other members of the Bloomberg School leadership became aware of the new ICE directive. We understand that, under this rule, students holding F-1 visas would lose their status and be forced to leave the country if enrolled in an entirely remote curriculum such as the one that my colleagues and I had carefully crafted for the fall 2020 semester in reliance on the pre-existing March 13 guidance—and that we understood would be in place for the duration of the COVID-9 emergency. Should the rule remain in place, we will be forced to choose between compromising on the considerations we feel would best protect our students and faculty, or adopting a remote program that will necessarily compel international students to leave the country.

9. As of July 6, 2020, there were 513 students on F-1 visas enrolled at the Bloomberg School of Public Health for the coming fall 2020 semester.

Harm to the Bloomberg School

10. The Bloomberg School relies heavily on the inclusion of international students in its classes. International students bring a wealth of perspectives informed by diverse experiences in public health the world over; those perspectives form a critical part of our education, research, and practice mission, which is global in scope. International students also fulfill valuable roles as Teaching Assistants in a multitude of classes, do mission-critical research in laboratories and elsewhere, obtain grant funds for the School through numerous sources domestically and abroad, and contribute a significant percentage of the School's tuition funds. Our School would suffer tremendously from a loss of our international students. In particular, the mission and efficacy of our School would be compromised by a loss of international students—including Johns Hopkins University's efforts in the global fight against COVID-19, to which many of our international students have been meaningfully contributing.

11. We anticipate our School will suffer significant financial consequences as a result of the July 6 Directive. Due to the considerable uncertainties around mode of education and visa issues, we have already processed more than 94 deferrals among international students.

12. Another troubling result of ICE's new directive is that some of our F-1 students have reported that they have no safe place to "return" to, because conditions in their home countries may place them at greater exposure to the pandemic. In addition some students expressed concern over inadequate Internet connectivity from their homes abroad. And in some countries, aspects of our public health curriculum, including sexual health, may be deemed objectionable by certain foreign governments which may block our students' access to our online curriculum.

13. The new July 6 ICE guidance also places an immense administrative burden on the School of Public Health.

14. The vagueness of the July 6 ICE guidance also places our School and our F-1 students at risk of factors beyond our control. For example, the directive only mandates that F-1 students participate in coursework that is “not entirely online,” but our School’s leadership is not certain how many hours, or credits, of in-person instruction is necessary to fulfill the directive for our students, or to preserve our SEVP accreditation.

15. Even if the Bloomberg School were to adopt an in-person educational component to our curriculum—in the face of our best judgments to the contrary—should a fall resurgence of the virus force our campus to transition entirely to online education in the coming months, any of our F-1 students who elect to remain in the United States would instantly lose their immigration status and be forced to leave the country at a time when travel would be especially precarious. This situation places our students and our School in an untenable position.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: Baltimore, Maryland
July 12, 2020



Ellen MacKenzie