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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

9 STATE OF WASHINGTON,

10 Plaintiff,

v.

11 UNITED STATES DEPARTMENT OF
12 HOMELAND SECURITY;
13 IMMIGRATION AND CUSTOMS
14 ENFORCEMENT; CHAD F. WOLF, in his
15 official capacity as Acting Secretary of the
16 U.S. Department of Homeland Security; and
17 MATTHEW ALBENCE, in his official
18 capacity as Acting Director of U.S. Customs
19 and Immigration Enforcement,

20 Defendants.

NO. 2:20-cv-01070

**DECLARATION OF
LINDA KAMINSKI**

21 I, Linda Kaminski, hereby state under the penalty of perjury that the
22 following statements are true and accurate to the best of my knowledge, based on my
23 personal knowledge as well as information compiled and verified by other Yakima Valley
24 College (“YVC” or the “College”) employees, and that I could testify to these matters if
25 called to do so:

26 1. I am the President of YVC, a position I have held since 1995. In my role
as President, I am responsible for all aspects of undergraduate education and residential
life. I also have oversight over YVC’s international students, including oversight over

1 YVC's International Students Program ("ISP"), which provides support for YVC's
2 international students.

3 2. YVC currently has 11 active students holding F-1 visas, including students
4 on Optional Practical Training ("OPT"), which allows eligible students to receive up to 12
5 months of employment authorization before completing their academic studies and/or
6 after completing their academic studies. In addition, YVC has 5 newly admitted students
7 who have not started their programs or F-1 visa status.

8 3. In my role as President, I have worked collaboratively for the last several
9 months with YVC's leadership, faculty, staff, scholars, alumni, students, parents, and
10 outside advisors in the development and implementation of YVC's plans and operations
11 during the COVID- 19 pandemic, including our plans for undergraduate education this fall.

12 4. On April 28, 2020, YVC, located in Yakima County, announced that the
13 Yakima County now is seeing the highest rate of infection, per capita, in the state, and
14 therefore made the difficult decision to extend online learning through the entirety of
15 Summer and Fall Quarters.

16 5. As part of my work evaluating the options and making recommendations
17 for the fall quarter, members of YVC's leadership were briefed on the COVID-19
18 Guidance for Student and Exchange Visitor Program ("SEVP") that the United States
19 Immigration and Customs Enforcement ("ICE") issued in response to the COVID-19
20 pandemic. On March 13, 2020, ICE issued COVID-19 Guidance for Student and
21 Exchange Visitor Program Stakeholders ("March 13 Guidance"). Pursuant to the March
22 13 Guidance, students in the United States holding F-1 visas are allowed to "count online
23 classes towards a full course of study" in the event their school temporarily stopped in-
24 person classes, regardless of whether the visa holders remained in the United States or
25 departed the United States. The March 13 Guidance stated that it would remain "in effect
26 for the duration of the emergency."

1 6. On July 6, 2020, ICE issued Fall 2020 COVID-19 Guidance (“July 6
2 Directive”). The July 6 Directive largely withdraws the exception that SEVP announced in
3 March. The July 6 Directive states that if a school provides only online course instruction
4 in the fall, students holding F-1 visas may not remain in the United States to pursue their
5 studies. It provides that students holding F-1 visas “must depart the country or take other
6 measures, such as transferring to a school with in-person instruction to remain in lawful
7 status[,] or potentially face immigration consequences including, but not limited to, the
8 initiation of removal proceedings.” It is our current understanding that if the July 6
9 Directive takes effect, YVC students with F-1 student visas who are enrolled in remote
10 programs will face immigration consequences if they do not leave the country within 15
11 days of the start of the Fall 2020 term. Further, it is our understanding that YVC students
12 with F-1 student visas who are enrolled in programs that are a hybrid of remote and in-
13 person learning but remain outside the United States will not be permitted to participate in
14 their coursework remotely and also maintain their F-1 visa status.

15 7. The July 6 Directive, if it takes effect, will have significant negative
16 impacts on YVC students and YVC as an institution. First, YVC has expended
17 tremendous energy over the preceding four months to develop guidance for the College’s
18 operations to take reasonable measures to prioritize the health and safety of its students,
19 faculty, staff, and the surrounding community while maintaining the vibrant educational
20 community at the College.

21 8. As described in more detail below, the July 6 Directive will make it
22 impracticable for certain of YVC’s international students to continue to study at YVC and
23 make progress toward their degrees, while imposing academic and living conditions for
24 others that will prompt them to take leaves from their programs—or drop out altogether.

25 9. By virtue of the fact that the July 6 Directive is likely to result in far fewer
26 international students enrolled at YVC during the coming academic year, the July 6 Directive

1 will affect YVC in at least the following additional ways:

- 2 a. YVC and its students benefit enormously from the participation of
3 international students. Indeed, many of YVC's curricular programs depend
4 critically on the presence and diversity of international students. YVC places
5 great emphasis on a diverse student body, and international students offer
6 perspectives that other students otherwise may never experience. And even
7 if students do not meet in classrooms, they can still—from appropriate
8 distances or online—share valuable elements of on-campus life, such as
9 participation in extracurricular activities. The loss of international students
10 from YVC would deprive YVC's students of one of the great benefits of their
11 experience here.
- 12 b. YVC's ISP will also be harmed financially if a substantial number of
13 international students leave, transfer to another institution, or do not enroll
14 in the fall. For nearly seven years the ISP has worked to grow and maintain
15 a self-supporting department. The loss of several current and prospective
16 students would put the ISP in fiscal unreliability that would take years to
17 rebuild.

18 10. Even if YVC were to implement in-person or hybrid (i.e., partial in-person,
19 partial virtual) instruction, such that students on F-1 visas could remain in the United States,
20 significant burdens would remain for international students. Many of YVC's international
21 students are first- year students or students who have returned to their home countries.
22 These students would be unable to get to campus because of the State Department's
23 suspension of consular processing of visa applications, which affects their ability to obtain
24 initial visas if they are new students, or obtain new visa stamps to support their reentry if
25 their current stamps have expired. Other students face travel restrictions that prevent them
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1 from leaving their home countries or entering the United States (or both). Moreover,
2 students participating in hybrid programs from outside the United States—either because
3 they choose to remain abroad or because they are unable to return to the United States—
4 would relinquish their F-1 status and therefore lose their ability to access critical benefits of
5 the F-1 visa program, such as Curricular Practical Training employment and Optional
6 Practical Training employment at the end of the academic year. This would further harm
7 YVC as an institution and the students who lose these opportunities.

8 11. Although a hybrid program might allow domestic students to select only
9 online courses if they have health conditions that place them at a greater risk (or simply
10 want to avoid the greater risk of infection that in-person instruction imposes), under the July
11 6 Directive, F-1 students are denied this. The July 6 Directive not only precludes F-1
12 students from an all-online course schedule, it mandates that F-1 students “tak[e] the
13 minimum number of online classes required to make normal progress in their degree
14 program.” Accordingly, vulnerable or concerned F-1 students would be forced to participate
15 in in-person learning, despite the risks.

16 12. The July 6 Directive also creates an administrative hurdle for YVC during a
17 time when administrators are devoting the majority of their time and effort to respond to the
18 pandemic. Under the Directive, schools must update all F-1 records and issue a new Form I-
19 20 to all F-1 visa students no later than August 4, 2020. YVC will be required to generate
20 forms in under a month to verify eligibility to pursue studies in the U.S.

21 13. The short timeframe of the July 6 Directive before the start of the fall
22 quarter not only makes it difficult for the College to change course; it makes it even more
23 difficult for international students to make alternative arrangements. International flights
24 are expensive and in the case of many countries, direct flights are unavailable,
25 necessitating multiple transfers, which increases the risk of COVID-19 with each leg of
26 the journey. International students will need to make arrangements for housing in their

1 home countries and will likely face financial hardship in breaking leases or finding
2 subletters for their housing, if permitted, in the United States.

3 14. For students with families and children, these challenges are exacerbated.
4 Significant others of our F-1 students will need to make alternative arrangements and many
5 of our students with young children will face difficulties in enrolling students in daycares
6 and schools outside of the country. Some families may be forced to split apart in order to
7 comply with the July 6 Directive.

8 15. In addition to the concerns with post-completion OPT status, students
9 holding F-1 visas typically have the opportunity to pursue pre-completion practical
10 training, internship, and experiential learning opportunities within the United States, which
11 complement the in-classroom instruction provided by YVC. In many cases, these
12 opportunities are with U.S.-based labs, centers, and companies. Some of these
13 opportunities are simply not available to students residing outside the United States. And
14 those that are permitted may be extremely difficult to pursue from abroad, as students
15 would need to coordinate meetings and other efforts with team members and supervisors in
16 the United States.

17 16. If forced to leave the United States, many students will face a difficult and
18 uncertain path to returning to the United States to continue their educations. At this stage,
19 U.S. consular offices are closed for routine visa appointments. Even when the consular
20 services reopen in the students' home countries, many students live great distances from
21 the consular offices and will be required to pay large sums to reinstate their visas. Many
22 countries have long waits for future visa appointments and will be delayed in returning to
23 complete their degrees if they are forced to return home at this stage.

24 17. Moreover, the July 6 Directive directed that schools offering a hybrid model
25 "must certify to SEVP, through the Form I-20, 'Certificate of Eligibility for Nonimmigrant
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1 Student Status,' that the program is not entirely online, that the student is not taking an
2 entirely online course load for the fall 2020 semester, and that the student is taking the
3 minimum number of online classes required to make normal progress in their degree
4 program." To comply with this requirement, YVC would need to issue a new Form I-20 for
5 each of its students on F-1 status and to do so within 21 business days of the July 6
6 Directive. Doing so is not only unduly burdensome, but, in many cases, difficult because
7 students are generally not required to even register for particular classes until closer to the
8 start of the quarter.

9 18. In addition to harms described above affecting YVC students, the College
10 has also heard from individual students from parts of the world who will face challenges by
11 remaining in or being forced to return to their home countries: moreover, many flight and
12 airport restrictions that make airline tickets prohibitively expensive.

13 19. YVC's goal is to welcome all students back to campus for in-person
14 learning as soon as it can responsibly do so. At this point, however, it would not be feasible
15 for YVC to safely implement College-wide in-person learning for the Fall 2020 quarter.
16 YVC invested significant time devising, planning, and implementing the 2020-2021
17 curriculum in a manner that did not anticipate widespread in-person learning, and it would
18 not be possible for YVC to implement the necessary safety measures required for College-
19 wide in-person learning for the Fall quarter, particularly in light of the uncertainty
20 surrounding COVID-19.
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1 I declare under penalty of perjury under the laws of the State of Washington and the United
2 States that the foregoing is true and correct.

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4 DATED this 9th day of July, 2020, at Yakima, Washington.

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7 LINDA KAMINSKI
8 President, Yakima Valley College
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