

August 9, 2022

Via electronic and priority mail

Kathy Culliton-Gonzalez
Officer for Civil Rights & Civil Liberties
Department of Homeland Security
245 Murray Lane, SW
Building 410, Mail Stop #0190
Washington, D.C. 20528
CRCLCompliance@hq.dhs.gov

The Honorable Joseph V. Cuffari
DHS Inspector General
Office of Inspector General/Mail Stop 0305
Attn: Office of Investigations - Hotline
U.S. Department of Homeland Security
245 Murray Lane SW Washington, DC
20528-0305
dhs-oig.officepublicaffairs@oig.dhs.gov

Dana Salvano-Dunn
Director, Investigations
Officer for Civil Rights & Civil Liberties
Department of Homeland Security
Dana.Salvano-Dunn@hq.dhs.gov

Nadia Batcha
Senior Policy Advisor
Officer for Civil Rights & Civil Liberties
Department of Homeland Security
Nadia.Batcha@hq.dhs.gov

Peter Mina
Acting Director
Officer for Civil Rights & Civil Liberties
Department of Homeland Security
CRCLCompliance@hq.dhs.gov
Peter.Mina@hq.dhs.gov

Kristen Clarke
Assistant Attorney General for Civil Rights
Civil Rights Division
U.S. Department of Justice
Kristen.Clarke@usdoj.gov

David Gersten
Office of Immigrant Detention Ombudsman
Immigration and Customs Enforcement
U.S. Department of Homeland Security
David.Gersten@hq.dhs.gov

Re: Complaint for violations of constitutional and procedural rights of Mr. Teja Ravi and other similarly situated students enrolled at the University of Farmington

Dear all,

We submit this complaint in an effort to protect the civil rights and liberties of Mr. Teja Ravi and all other similarly situated students enrolled at the University of Farmington (“Farmington”), a fake university set up by the U.S. Immigration and Customs Enforcement’s (“ICE”) Homeland Security Investigations (“HSI”) and overseen by U.S. Department of Homeland Security (“DHS”). In violation of Mr. Ravi and the other students’ constitutional rights, the DHS deprived them of thousands of dollars they spent in tuition and fees to the fake University. Additionally, in violation of the constitution and federal law, the DHS determined that the students knowingly

committed visa fraud, terminated their F-1 student visa status, and detained several students with no advance notice.

The University of Farmington marketed itself as a university that “provide[s] students from throughout the world a unique educational experience” and claimed to be accredited by the Michigan Department of Licensing and Regulatory Affairs and the Accrediting Commission of Career Schools and Colleges. Farmington also claimed it was authorized by the Student and Exchange Visitor Program (SEVIS) that allows the admittance of foreign students.

However, Farmington was nothing more than a façade. It is now well known that HSI created Farmington in an attempt to expose student visa fraud in the United States. Yet there was no way for Mr. Ravi and other prospective students to distinguish Farmington from a real university. In addition to fabricating credentials, Farmington established a physical address, maintained a professional website, issued offers of acceptance, accepted tuition payments, and mailed students I-20 Certificate of Eligibility for Nonimmigrant Student Status.

In January 2019, the DHS revealed that the University was a sham and charged eight individuals who worked as “recruiters” for the school with conspiracy to commit visa fraud and harboring aliens for profit. For Mr. Ravi and all the other students innocently caught up in the scheme, the DHS reneged on their guarantees that they had properly adhered to immigration regulations and were therefore lawfully residing and working in the United States. Instead, the DHS had the audacity to revoke their visa status, keep their tuition money without notice, and even detain innocent students for an extensive period of time.

In November 2019, then-Senator Kamala Harris, said the operation “isn’t just cruel, it’s a waste of taxpayer dollars” and demanded Officials be held accountable for their actions.¹ However, the administration has taken no action to rectify this great injustice.

DHS’s actions violate Mr. Ravi’s constitutional rights and the Administrative Procedure Act. We request that the DHS immediately refund Mr. Ravi and all other similarly situated students of all funds paid to University of Farmington and refrain from discriminating against their future applications to enter the United States.

We further request that the DHS immediately cease any operations similar to the University of Farmington and launch an investigation into any discriminatory motives underlying the operation, as nearly all the victims were of Indian nationality.

I. Factual Background

University of Farmington

¹ Amanda Holpuch, *The student sting: the troubling inside story of Ice's fake university*. THE GUARDIAN (DEC. 5, 2020), <https://www.theguardian.com/us-news/2020/dec/05/ice-fake-university-farmington-inside-story>.

The University of Farmington was a fake university established by ICE's Homeland Security Investigations and overseen by DHS to expose student visa fraud. In an effort to maintain a legitimate façade, the HSI used a complex scheme of phony credentials and misleading and false statements to enroll prospective students. This scheme included:

- Establishing a physical location:
 - HSI leased a physical office in Farmington Hills, Michigan. Nevertheless, all administrative interfacing between the University officials and students/prospective students occurred digitally or telephonically as many of the enrolled students and prospective students relied on the online feature of the University.
- Enlisting recruiters to lure students:
 - HSI enlisted the assistance of nearly a dozen recruiters to funnel students to enroll in the University of Farmington, rather than other, legitimate, graduate programs. These recruiters, primarily foreign students, were in similar social circles as Mr. Ravi, and approached him and other students without solicitation.
- Fabricating credentials:
 - Undercover agents of the DHS registered the University of Farmington with the state of Michigan as a legitimate university through the Department of Licensing and Regulatory Affairs.
 - A national accreditation agency, the Accrediting Commission of Career Schools and Colleges, at the request of DHS, listed the University as being accredited in order to help deceive prospective students.
 - The DHS placed the University on an ICE website, listing the University as an institution approved for SEVIS.
- Establishing a professional and legitimate web presence:
 - From its web presence, it was virtually impossible for prospective students to differentiate the University from a legitimate one. The website had an official “.edu” address and contained information such as specific details related to its courses and provided tuition pricing. Prospective students researching schools were doing so from the internet as the majority neither lived in or near Michigan.

The University also engaged in individual communication via postal and electronic mail with the prospective students. Upon acceptance of an offer letter from the University, students were advised that there would be regular classes monthly. The University also mailed students I-20s, leaving them no reason to question the University's legitimacy.

Emails from University officials continued the impression of legitimacy. In an email to prospective students, an official wrote that, “In many instances, your prior Master's Degree's (MA) credits, combined with CPT, can be applied to a second MA in lieu of a traditional course load.” He additionally continued to highlight the scheme's accreditation, stating: “We are accredited by the Accrediting Commission of Career Schools and Colleges (www.accsc.org) and licensed by the Michigan Department of Licensing and Regulatory Affairs as a private postsecondary college.

To further strengthen its claim of legitimacy, emails from the University contained a footer with the following statement: “A nationally accredited institution authorized to enroll international students by the U.S. Department of Homeland Security.”

Mr. Teja Ravi and other similarly situated students enrolled at the University of Farmington

Mr. Ravi came to the United States in 2015 on a 5-year student visa to study engineering at Northwestern Polytechnic University in California. After graduating, he engaged in lawful employment through the optional practical training program (OPT). Before the end of his OPT status, Mr. Ravi endeavored to apply to graduate programs to further his education. Mr. Ravi learned from a friend about the University of Farmington who advised him that he could attend all classes online, which would allow him to maintain his legal immigration status and continue to pursue his education. Mr. Ravi was interested in the University of Farmington as it offered graduate programs in IT, which he hoped would make him a more attractive candidate to prospective employers. The University also allowed him to maintain the Curricular Practical Training (“CPT”) which allowed him to work while attending the University.

Mr. Ravi applied to the University in early 2018 by filling out an admission form and enrolled in the Masters in Information Technology program. Upon enrollment to the University, Mr. Ravi paid \$12,500 in tuition. He was advised by the University that he would be scheduled for regular classes every month. After the commencement of the first semester, Mr. Ravi did not receive any classes to attend or assignments, as he had been promised by the University. Mr. Ravi contacted the University administration to find out why and was told by University officials that the lack of classes and assignments would not be an issue. Mr. Ravi also re-checked the University’s accreditation on its website, which indicated that his CPT was valid.

A year after enrolling, Mr. Ravi learned that the University might be fraudulent and attempted to reach the University administration three times. On his third attempt, Mr. Ravi spoke with University administrator Carrie Fernand, who advised him that there were no issues. Shortly thereafter, however, Mr. Ravi discovered news of the University being a sting operation by the DHS, with many students either arrested or deported.

Mr. Ravi’s experiences with the University are typical of the class and over 500 other University of Farmington students. Immediately following the operation’s public announcement, ICE began terminating the SEVIS records and I-20s for each of the students who had enrolled at the University for their “fraudulent enrollment.” Specifically, ICE made a blanket finding that any student who enrolled in the University knowingly participated in visa fraud by enrolling for the sole purpose of illegally obtaining and/or maintaining their F-1 nonimmigrant status.

Contrary to its established practice and policy, ICE did not provide these students with any advance notice that the school’s SEVIS designation would be terminated, nor any opportunity to transfer to another school or apply for a chance of status before their SEVIS records were termi-

nated. Instead, ICE detained several innocent students and placed them in removal proceedings in Immigration Court. For example, Ms. Seatha Bauchu, one of the students at the University, was awoken in the middle of the night by ICE agents in her home and taken into custody for 45 days with no advance notice.

As demonstrated by these facts, Mr. Ravi and the other innocent students enrolled at the University of Farmington suffered great injustice and were deprived of their constitutional rights. In violation of the constitution, the DHS took the thousands of dollars Mr. Ravi and other students spent in tuition and fees to attend the fake University. Furthermore, without due process and in violation of federal law, the DHS terminated Mr. Ravi and the other student's immigration status and detained some individuals for an extensive period of time.

II. The DHS violated Mr. Ravi's and the other innocent students' constitutional rights by depriving them of their property.

The 4th Amendment protects people from unreasonable seizures.² A seizure of property occurs where there is some meaningful interference with an individual's possessory interest.³ The person from whom the property is seized is presumed to have a right to its return, and the government has the burden of demonstrating that it has a reasonable reason to retain the property.⁴ Reasonableness is evaluated in the context of the government's "need for the property in investigation or prosecution."⁵ If the retention is not reasonable, the owner of the property has a due process right to have the government either return the property or initiate forfeiture proceedings without unreasonable delay.⁶

The DHS seized Mr. Ravi's and the other students' tuition money and its retention is unreasonable. It is obvious that Mr. Ravi and the other students had exclusive possession of their money before their transaction with the DHS and that the DHS retaining the tuition money meaningfully interfered with that interest. Furthermore, the DHS cannot claim that the virtually transferred money needs to be retained for investigation or prosecution. Hence, in accordance with Mr. Ravi's and the other students' constitutional rights, the money promptly needs to be returned to their possession.

That the money was "voluntarily" paid to DHS agents is irrelevant. In order to justify a search or seizure through consent, the government bears the burden of showing that the consent was "un-

² See e.g., *United States v. Place*, 462 U.S. 696, 701 (1983).

³ See e.g., *Soldal v. Cook County*, Ill., 506 U.S. 56, 61 (1992).

⁴ *United States v. Martinson*, 809 F.2d 1364, 1369 (9th Cir. 1987).

⁵ FRCrP 41(e), Advisory Committee Notes to the 1989 Amendments.

⁶ *Acadia Tech., Inc. v. United States*, 458 F.3d 1327, 1334 (Fed.Cir.2006).

equivocal, specific, [and] intelligently given.”⁷ Where a person consents for the government to possess their property, that consent is “implicitly limited by [the individual’s] right to withdraw his consent and reinvoked his Fourth Amendment rights.⁸ Once the person withdraws that consent and reinvokes his Fourth Amendment rights, the government’s possession becomes a seizure because it interferes with the individual’s possessory interests.⁹ Here, Mr. Ravi and the other students’ consent to the government’s possession of their tuition money was unequivocally revoked when they discovered that the University was fake and would not grant them an education. Hence, at this point, the government is only maintaining the money for their own profit. As the Supreme Court has explained, when the government chooses “to exert dominion and control over the [property] for their own purposes,” the taking “clearly constitute[s] a ‘seizure.’”¹⁰

Even assuming, for the sake of legal argument, that the DHS’s actions did not classify as seizure, a person also has the right to the return of wrongfully deprived property.¹¹ Here, it is clear that Mr. Ravi and the other students were wrongfully deprived of their money as the students only engaged in the transaction because of the DHS’s fraudulent representation.

To find otherwise would seriously implicate civil rights and liberties. If the government was allowed to lure innocent people to buy fraudulent products and keep the money without any process, the 4th and 5th Amendments would essentially be rendered useless. It is well documented that the civil forfeiture system in the U.S.—where police can seize property with limited judicial oversight and retain it for their own use— has led to egregious and well-chronicled abuses.¹² Perversely, these forfeiture operations frequently target the poor and other groups least able to defend their interests in forfeiture proceedings.¹³ This despicable tendency is vivid in this case. The DHS targeted exclusively vulnerable students from India. These students were in an extremely compromised position to defend their interest as they were forcefully removed from the U.S. Even worse, the students in this case did not even have the opportunity to defend their interest through a forfeiture procedure. Instead, the DHS kept Mr. Ravi and the other student’s money with absolutely no notice and no legal process for protecting their interests.

⁷ *United States v. Salvo*, 133 F.3d 943, 953 (6th Cir.1998).

⁸ *Mason v. Pulliam*, 557 F.2d 426, 429 (5th Cir.1977).

⁹ *Id.*

¹⁰ *United States v. Jacobsen*, 466 U.S. 109, 122 (1984)

¹¹ *See* FRCrP 41(e)

¹² *Leonard v. Texas*, 137 S. Ct. 847, 848 (2017).

¹³ *Id.* (citing Stillman, Taken, The New Yorker, Aug. 12 & 19, 2013, pp. 53–55. Sallah, O’Harrow, & Rich, Stop and Seize, Washington Post, Sept. 7, 2014, pp. A1, A10.)

III. The DHS Violated Mr. Ravi's and the other innocent students' constitutional rights by targeting and racially profiling South Asian students

The 5th amendment guarantees equal protection under the law. Through the University of Farmington, ICE has engaged in a pattern and practice of racial profiling that deprives South Asian students, attempting to legally study in the United States, of the rights, privileges, and immunities secured and protected by the Constitution under the 5th amendment. The University of Farmington scheme had a discriminatory impact on South Asian students, which in context evidences a discriminatory intent in violation of the 5th amendment's equal protection clause.

The discriminatory impact of a facially neutral policy can serve as evidence of discriminatory intent.¹⁴ Even if DHS claims that the establishment of the University of Farmington was facially neutral, the disproportionate impact on students of Indian nationality, and the pattern of targeting racial groups through these fraudulent universities, displays a contradictory motive. The various factors that can show discriminatory intent include, statistics demonstrating a clear pattern of discriminatory effect; the historical background of the decision; the sequence of events leading up to the decision; departures from normal procedures; relevant legislative or administrative history; and consistent patterns of actions of decision-makers that impose much greater harm on minorities than on non-minorities.¹⁵

Every student who was detained through the University of Farmington was of Indian nationality, other than one student from Palestine.¹⁶ This near exclusive impact on Indian students can alone evidence discriminatory intent.¹⁷ In 2018, the percentage of Chinese and Indian F-1 students combined totaled 47%, with the number of Chinese students (478,732) almost doubling the amount of Indian students (251,290).¹⁸ Given that the number of Indian F-1 students in the U.S. hovers only around ¼ of the total F-1 students in the country, it cannot be a coincidence that nearly every student targeted by the University of Farmington was from India. Rather, the entirely disproportionate impact on Indian students indicates DHS' discriminatory intent to harm students from India. Furthermore, DHS's selection of recruiters for the University of Farmington was not facially neutral, as each recruiter selected was of Indian nationality.¹⁹ The selection of

¹⁴ *Village of Arlington Heights v. Metropolitan Housing Corp.*, 429 U.S. 252, 266 (1977).

¹⁵ *Id.* at 266-68.

¹⁶ Niraj Warikoo, *India urges U.S. to release students detained in fake Michigan university sting*, DETROIT FREE PRESS (Feb. 3, 2019), <https://www.freep.com/story/news/local/michigan/oakland/2019/02/03/india-students-university-farmington/2760906002/>.

¹⁷ *Yick Wo v. Hopkins*, 118 U.S. 356, 373 (1886).

¹⁸ U.S. Immigration and Customs Enforcement, *2018 Sevis by the Numbers Report*, <https://www.ice.gov/doclib/sevis/pdf/sevisByTheNumbers2018.pdf>.

¹⁹ *US-India Farmington university row: 'I fled after fake college raid'*, BBC NEWS (Feb. 8, 2019), <https://www.bbc.com/news/world-asia-india-47154187>.

recruiters further signals DHS' intent to target South Asian students, and Indian students in particular, for their cruel and illegal scheme.

In addition, DHS' past actions through the University of Northern New Jersey evidence a pattern of racial targeting through the creation of fraudulent universities utilized to trick and deport innocent students attempting to gain an education in the United States. The University of Northern New Jersey targeted primarily Chinese and Indian students.²⁰ The consistent targeting of students based on their national origin through these fraudulent universities establishes a pattern of racial profiling that runs counter to the constitutional guarantees of equal protection.

DHS utilized this fraudulent university as a guise to target students based on their national origin, and to deprive those students of their tuition money and immigration benefits. This racialized targeting of students seriously implicates and violates the 5th amendment's promise of equal protection. By almost exclusively targeting students from India, DHS violated their civil rights and civil liberties, and stripped the students of their opportunities and hope for the future.

IV. The DHS violated Mr. Ravi's and the other innocent students' constitutional rights and the Administrative Procedure Act ("APA") by determining that they participated in visa fraud and terminating their student visas without sufficient process.

DHS's determination that Mr. Ravi and the other innocent students knowingly participated in visa fraud was not accompanied by constitutionally adequate procedural protections and violated their due process rights. DHS made this determination on an across-the-board basis for every student enrolled at the University of Farmington without any individualized hearing. This determination violated due process by: (i) failing to provide the students with individualized hearings before impartial adjudicators before determining that they knowingly committed visa fraud; (ii) failing to provide the students with adverse evidence and an opportunity to confront and respond to such evidence; and (iii) failing to provide the students with an opportunity to present evidence on their behalf. Rather than comply with these well-established due process principles, DHS simply made a blanket determination that any student who ever enrolled at University of Farmington knowingly participated in visa fraud regardless of the facts surrounding each students' case. DHS's complete disregard for consideration of students' individual circumstances and its blanket, indiscriminate determination that every international student who enrolled at University of Farmington knowingly committed visa fraud grossly violated the students' procedural due process rights.

Furthermore, DHS's termination of Mr. Ravi's and the other students' F-1 student status violates the Administrative Procedure Act ("APA") and should be set aside pursuant to 5 U.S.C. § 706(2) (A) as arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with the law.

²⁰ U.S. Attorney's Office, *21 Defendants Charged with Fraudulently Enabling Hundreds of Foreign Nationals to Remain in the United States Through Fake 'Pay To Stay' New Jersey College*, DEPARTMENT OF JUSTICE (April 5, 2016), <https://www.justice.gov/usao-nj/pr/21-defendants-charged-fraudulently-enabling-hundreds-foreign-nationals-remain-united>.

Until DHS unilaterally shut down the University of Farmington, Mr. Ravi and the other students complied with every rule and regulation governing the F-1 visa program. The University was DHS-certified to sponsor students in F-1 status and the students obtained a facially valid Form I-20 confirming the validity of their F-1 status while participating in CPT.

In unilaterally terminating the F-1 status immediately upon announcing its shutdown of the University, DHS failed to provide the students with notice or any opportunity to maintain their valid F-1 student status prior to its termination. In direct contravention of ICE's established practice and policy, DHS failed to provide the students with any opportunity to transfer to another school or apply for a change of status before terminating their SEVIS records – an action which caused the students to immediately be “out of status.” Instead, ICE detained several innocent students and placed them in removal proceedings in Immigration Court without any prior notice.

V. Requested responses to DHS and its agency's unlawful treatment of Mr. Ravi and the other similarly situated students enrolled at University of Farmington.

As described herein, the University of Farmington operation conducted by the DHS and its agencies violates the constitution and federal law. In violation of Mr. Ravi and the other innocent students' constitutional rights, the DHS deprived them of thousands of dollars spent in tuition and fees to the University. Furthermore, without due process and in violation of federal law, the DHS determined that the students knowingly committed visa fraud, terminated their F-1 student status, and detained several students with no advance notice. For these reasons, and to rectify this great injustice and deprivation of civil rights, we respectfully request:

1. The DHS to immediately refund Mr. Ravi and all other similarly situated students of all funds paid to University of Farmington.
2. The DHS to refrain from discriminating against any future application to enter the United States submitted by Mr. Ravi or any other similarly situated student enrolled at the University of Farmington. The DHS to provide Mr. Ravi and similarly situated students their choice of (1) a reasonable opportunity to preserve their valid status by transferring to a different DHS-approved school, or (2) an H-1B visa after providing a reasonable opportunity for them to find a qualifying employer sponsor, or (3) an H-2B visa after providing a reasonable opportunity for them to find a qualifying employer sponsor, or (4) a permanent resident card after providing a reasonable opportunity for them to find a qualifying employer sponsor.
3. The DHS to immediately cease any operations such as University of Farmington as it violates the civil rights and liberties of hundreds of innocent students.
4. The CRCL to conduct an independent and comprehensive investigation into any discriminatory motives underlying the operation as nearly all of the victims were of Indian nationality.

Thank you for your urgent attention to these critical matters. Please do not hesitate to contact us for additional information.

Sincerely,

Amy E. Norris (D.C. Bar No. 1017140)
Anna L. Nathanson (D.C. Bar No. 1737999)
NORRIS LAW, PLLC
616 E Street N.W., Suite 1156
Washington, D.C. 20004
Phone: (202) 530-0100
amy@norrislawgroup.org
anna@norrislawgroup.org