



Dale Gough <amadorsapo@gmail.com>

Latitudes: A federal judge has ruled that foreign students and scholars have free-speech rights

1 message

Karin Fischer <newsletter@newsletter.chronicle.com>

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Reply-To: newsletter@newsletter.chronicle.com

To: amadorsapo@gmail.com

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Latitudes

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Court rebukes Trump administration's attempts to deport protesters

A federal judge has ruled that the Trump administration used the threat of deportations to silence foreign students and scholars, unlawfully infringing on their free-speech rights as part of an effort to silence pro-Palestinian campus protests.

In his [ruling](#), Judge William G. Young called the crackdown a “truly scandalous and unconstitutional suppression of free speech.” International students and other noncitizens, he said, “unequivocally” have the same First Amendment rights as Americans.

But Young’s fiery rebuke of the actions of federal officials may do little to alleviate the [chilling effect](#) of the detentions on the holders of visas or green cards, leaving many still apprehensive about the consequences of speaking out.

Young, a senior justice for the U.S. District Court in Massachusetts, did not order any specific actions, such as an immediate freeze on deportations, although he said he would promptly schedule a hearing on possible remedies. Toward the end of his 161-page decision, Young wrote that he was “not so sure” that there could be an “effective” remedy to the violations, given President Trump’s broader efforts to limit free speech and his assertion of executive power.

While the decision was a “sweeping order from the court,” Elora Mukherjee, a law professor at Columbia University and director of the campus’s Immigrants’ Rights Clinic, said the impact on international students and scholars was unclear. “We don’t yet have that answer.”

That could be determined by Young’s next steps. He could find the Trump administration’s use of an obscure provision of immigration law to initiate the removal of people whose presence in the United States jeopardizes the country’s foreign policy goals to be invalid, Mukherjee said.

A [separate case](#), in California, specifically challenges the underlying statute, saying that it is a constitutional violation to invoke immigration-law provisions for free speech and other activities protected by the First Amendment. (The U.S. Department of Justice argued for [dismissal](#) of that case last week. Lawyers contend that the

plaintiffs, Stanford University's student-run newspaper and two unnamed international-student protesters, don't have legal standing.)

The Massachusetts lawsuit was brought by the American Association of University Professors and other academic and civil-rights groups. Over a nine-day trial in July, noncitizen professors [testified](#) that they had altered syllabi, changed research plans, and scrapped opinion essays after the detention and threatened deportation of several pro-Palestinian activists because they worried that they, too, could face revocation of their legal status.

Government officials denied the existence of an "ideological deportation" policy and said they were instead following longstanding processes and prerogatives of the executive branch to set and carry out foreign policy. Combating antisemitism, they argued, is part of American foreign policy.

But in his opinion issued on Tuesday, Young, an appointee of President Ronald Reagan, agreed with the AAUP that the Trump administration was attempting to revoke visas solely on the basis of political speech.

The public nature of the arrests, by masked immigration agents, was also meant to send a message to others about the consequences of speaking out on contentious issues, he said.

Throughout the trial, lawyers representing the administration had characterized academic-visa holders as guests in the United States, admitted and expelled at the discretion of the government. Young borrowed the language in his ruling: "How we treat our guests is a question of constitutional scope, because who we are as a people and as a nation is an important part of how we must interpret the fundamental laws that constrain us," Young said. "We are not, and we must not become, a nation that imprisons and deports people because we are afraid of what they have to tell us."

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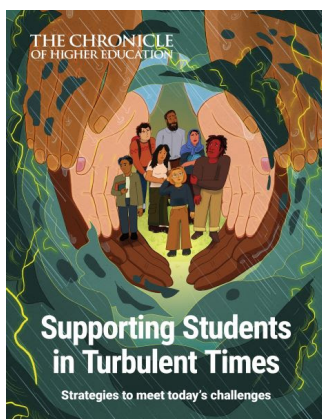
Senator calls for ending OPT

U.S. Sen. Charles Grassley is calling on the Department of Homeland Security to stop approving work authorization for international students. Grassley, an Iowa Republican and chairman of the Judiciary Committee, said that programs such as optional practical training, which allows recent graduates to stay and work in the United States for up to three years, take jobs away from Americans and is an opportunity for corporate and technological espionage.

He also argued that permitting student-visa holders to work is a violation of immigration law because such visas are awarded “solely” for the purpose of education, not employment. In a [letter](#) to the homeland-security secretary, Kristi Noem, Grassley asked for a commitment to “put an end to” work authorizations for international students or for a legal justification for continuing the practice.

While there have been lawsuits challenging OPT, courts have ruled in favor of keeping the decades-old program. However, the Trump appointee who heads the office that directly oversees OPT has said he wants to [abolish](#) it.

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Report tallies nearly 400 attacks on higher education worldwide

Attacks on higher education are not limited to countries where dissent is suppressed and the rule of law is weak, a new [report](#) says.

The annual *Free to Think* report from the Scholars at Risk network documents nearly 400 attacks to professors, students, and institutions

worldwide over the past year, a list that includes the use of police and military force against student protesters in Bangladesh and the arrest of academic critics of the government in Russia.

But pressure on colleges in the United States has also increased, as public officials seek to limit academic freedom and assert greater control over higher education, the report warns. “Even in societies that have long had strong and stable democratic institutions, elected officials with autocratic impulses are using both the levers of democracy and extralegal administrative measures to undermine democratic institutions, including universities.”



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Around the globe

Kentucky has struck a [tentative deal](#) with the U.S. Department of Justice to stop providing in-state tuition to undocumented students. The federal government had sued Kentucky and several other states, charging that such policy discriminates against out-of-state students.

A judge dismissed an effort to deport a DACA recipient because she is legally allowed to be in the United States. Immigration officials are [still detaining her](#).

International students can no longer work at Purdue University's [student newspaper](#) after the institution cut ties with the publication. As a result, reporting and editing jobs no longer count as approved on-campus work.

One hundred colleges account for 70 percent of the 16,800 [H-1B visas](#) awarded last year to academic institutions.

There were five times as many [American applicants](#) to a major European Union research program for its latest round of funding.

Global research collaboration with Israeli academics has [declined](#).

Students in Pakistan will have to complete [internships](#) and professional certifications as part of their undergraduate degrees.

I talked about international students, immigration, and the politicalization of higher education on the [Future U podcast](#).

And finally ...

College Matters from The Chronicle, our weekly podcast about all things higher ed, has been named a finalist in the education category of the [Signal Awards](#), an annual competition that recognizes excellence in the podcast medium. You can support the show by voting [here](#) for *College Matters* in the Listener's Choice awards.

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