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Higher Education Alert

November 18, 2026

Federal court halts SEVP's August CPT guidance

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Institutions may again authorize elective, for-credit practical training for F-1 students, but unresolved legal questions call for careful documentation.

What's the impact?

- A nationwide stay blocks the August guidance. Institutions may again authorize curricular practical training (CPT) for elective, for-credit experiences that meet other regulatory requirements.
- The court did not resolve what makes training an "integral part" of a curriculum. Institutions should document the academic basis for each authorization and help students preserve their records.

On November 17, the US District Court for the District of Massachusetts granted a nationwide stay and a preliminary injunction prohibiting the Department of Homeland Security (DHS) and its agencies from enforcing two August 2026 broadcast messages issued by the Student and Exchange Visitor Program (SEVP) that restricted Curricular Practical Training (CPT) for F-1 student visa holders. The broadcasts effectively prohibited CPT authorization for elective, for-credit internships and practicums unless the training was required of all students pursuing the degree.

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The court found that SEVP had departed from its longstanding interpretation of the CPT regulation without acknowledging the change, explaining its rationale, or considering the significant reliance interests of institutions and students. For now, institutions may rely on the prior interpretation to qualify elective training for academic credit for CPT, provided the other regulatory requirements are satisfied.

The ruling is significant, but it is not a final resolution of the underlying dispute. Importantly, the court did not confirm how institutions should interpret the regulatory requirement that CPT be an "integral part of an established curriculum."

Litigation and the court's ruling

On October 5, the Association of American Universities (AAU), the Presidents' Alliance on Higher Education and Immigration, the Association of Independent Colleges and Universities in Massachusetts (AICUM), and NAFSA: Association of International Educators filed suit against DHS, US Immigration and Customs Enforcement (ICE), and the Department of Justice. *Association of American Universities v. US Department of Homeland Security*, No. 1:26-cv-14520-JEK (D. Mass. Nov. 17, 2026).

The plaintiffs challenged the broadcast messages issued by SEVP under the Administrative Procedure Act (APA), alleging that they were arbitrary and capricious, impermissibly retroactive, contrary to law, and procedurally invalid. They sought a stay of the broadcasts and a preliminary injunction preventing their enforcement while the litigation proceeded.

Judge Julia E. Kobick granted the motion, finding that the plaintiffs were likely to succeed on their claim that the broadcasts were arbitrary and capricious. The court's principal findings were:

- **Standing.** The associations had standing to sue on behalf of their members, including SEVP-certified institutions and designated school officials (DSOs). The court rejected the government's argument that the plaintiffs had not suffered an injury because no enforcement action had yet been taken. The broadcasts directly addressed regulated institutions and DSOs and threatened legal consequences for noncompliance. Institutions were not required to wait for an enforcement action before challenging the guidance.
- **Final agency action.** The court determined that the broadcasts constituted final agency action subject to judicial review under the APA. Although SEVP characterized them as informational guidance rather than rules or final agency actions, the broadcasts used mandatory language, established a concrete interpretation of the CPT regulation, and threatened specific consequences for noncompliance. Their disclaimers did not insulate them from judicial review.
- **Arbitrary and capricious agency action**. The court found that the plaintiffs were likely to succeed on their claim that SEVP violated the APA by changing its longstanding

interpretation of the CPT regulation, without acknowledging or explaining the change. For approximately 35 years, the government recognized that elective training students received academic credit for qualified for CPT. The August broadcasts adopted a contrary interpretation without addressing the prior rulemaking or agency guidance, explaining the departure, or considering the substantial reliance interests of institutions and students that had structured academic programs and educational opportunities around the longstanding interpretation.

Importantly, the court did not reach the plaintiffs' other APA arguments, including their claims that the broadcasts were impermissibly retroactive, contrary to law, or procedurally invalid.

- **Irreparable harm and public interest.** The court found that institutions had already incurred substantial, unrecoverable costs responding to the broadcasts, including revising curricula, modifying student guidance, and addressing increased student inquiries. The threatened loss of SEVP certification and potential liability for DSOs further supported a finding of irreparable harm. The court concluded that the balance of equities and public interest favored relief, explaining that there is, generally, no public interest in perpetuating unlawful agency action.

Scope of the court's relief

The court granted two forms of interim relief under separate legal authorities. The distinction is important for institutions assessing the extent of the decision's protections.

Relief	Scope	Effect
Stay under 5 US Code §705	Nationwide	The August 12 and August 24 broadcasts may not be enforced or applied pending judicial review.
Preliminary injunction	Plaintiffs and their members, including members' employees and students	The government is prohibited from implementing or enforcing the broadcasts' interpretation, both prospectively and with respect to conduct and approvals predating the broadcasts.
Rescission of adverse actions	Not granted	The court declined to order rescission because the plaintiffs had not identified any adverse action actually taken by the federal defendants.

Notice to all SEVP-certified institutions	Not granted	The court found that requiring notice to all SEVP-certified institutions was not sufficiently connected to providing relief to the plaintiffs.

Under 5 US Code §705, the court stayed enforcement and application of the two broadcasts nationwide to preserve the status quo and avoid the confusion that could result from institution-specific relief. **Accordingly, institutions do not need to establish membership in one of the plaintiff associations to benefit from the stay.**

The preliminary injunction provides additional protection to the plaintiff associations and their members, expressly extending to members' employees and students and covering both future conduct and CPT approvals predating the August broadcasts. Institutions should confirm their membership status to understand the full scope of the relief available to them.

Continuing risk: The meaning of "integral" remains unresolved

Although the ruling allows institutions to return to the longstanding CPT framework, it does not resolve the underlying regulatory question. The court's decision rests on SEVP's failure to acknowledge and adequately explain its departure from its prior interpretation, rather than an independent determination of what constitutes an "integral part of an established curriculum."

The government continues to maintain that its narrower interpretation is the correct reading of the regulation. The court did not decide on that issue, and the government may continue to pursue its interpretation in further proceedings or through new agency action that addresses the deficiencies identified by the court. The preliminary relief also remains subject to further judicial review and potential appeal.

There is also separate concern for current and former F-1 students. Their CPT history may be relevant to future immigration applications and adjudications, including applications for optional practical training (OPT), STEM OPT extensions, H-1B status, changes or adjustments of status, and new visa applications. Questions about whether prior CPT was properly authorized could arise in connection with an assessment of whether a student properly maintained F-1 status.

For students whose CPT involved elective, for-credit training, the unresolved regulatory interpretation creates some uncertainty. If SEVP's narrower interpretation is ultimately reinstated or adopted through new agency action, questions could arise later about the treatment of prior CPT authorizations. The court's preliminary injunction expressly protects pre-broadcast conduct and approvals for the plaintiffs and their members, but it does not finally adjudicate the validity

of all historical CPT authorizations or resolve how future immigration adjudicators will approach those records.

Institutions should not assume that the November 17 ruling eliminates all potential questions about prior CPT participation. Maintaining a clear record of the academic basis for each authorization will remain important.

Next steps for institutions

- **Consider resuming CPT authorizations under the longstanding framework**. Institutions may again authorize CPT for elective, for-credit internships and practicums, provided the training satisfies the other applicable regulatory requirements, including its relationship to the student's major and its place within the established curriculum. The nationwide stay applies regardless of association membership. Institutions should promptly communicate the ruling to international student offices and DSOs and include clear communication regarding the potential downstream impacts noted above.
- **Document the academic basis for each authorization.** Institutions should maintain contemporaneous records explaining how the training relates to the student's academic program and established curriculum. Relevant documentation may include the course description, academic credit awarded, learning objectives, syllabus, faculty oversight, and the relationship between the practical training and the student's major.
- **Revisit Fall 2026 decisions.** Though late in the semester, institutions should consider whether to reinstate CPT authorizations denied or rescinded in response to the broadcasts, including whether affected students can still participate in the relevant internships or practicums. Institutions should also reassess curriculum changes made solely to comply with SEVP's August guidance.
- **Protect students' immigration records.** Encourage students to retain CPT-endorsed Forms I-20, transcripts reflecting academic credit, course descriptions, syllabi, and employer documentation describing their training. These records may be useful in explaining the academic basis for CPT authorization in future immigration applications.
- **Monitor further developments.** Institutions should watch for an appeal, further proceedings in the district court, and any new SEVP guidance or rulemaking addressing CPT eligibility. The court's decision provides immediate relief, but the underlying dispute over the meaning of "integral part of an established curriculum" remains unresolved.

Nixon Peabody's Higher Education team can help institutions assess the ruling's protections, review CPT policies and prior authorization decisions, and strengthen documentation practices. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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