

1 Charles F. Robinson (SBN 113197)  
charles.robinson@ucop.edu  
2 Margaret L. Wu (SBN 184167)  
margaret.wu@ucop.edu  
3 Allison M. Woodall (SBN 178533)  
allison.woodall@ucop.edu  
4 Sonya U. Sanchez (SBN 247541)  
sonya.sanchez@ucop.edu  
5 UNIVERSITY OF CALIFORNIA  
OFFICE OF THE GENERAL COUNSEL  
6 1111 Franklin Street, 8th Floor  
Oakland, CA 94607-5200  
7 Telephone: 510.987.9800

8 Jennifer S. Romano (SBN 195953)  
jromano@crowell.com  
9 Emily T. Kuwahara (SBN 252411)  
ekuwahara@crowell.com  
10 CROWELL & MORING LLP  
515 South Flower Street, 40th Floor  
11 Los Angeles, California 90071  
Telephone: 213.622.4750

12 (Additional counsel listed on signature page)

13 Attorneys for Plaintiff  
14 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO/OAKLAND DIVISION

17 THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA, a California  
18 Corporation,

19 Plaintiff,

20 v.

21 UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY; U.S.  
22 IMMIGRATION AND CUSTOMS  
ENFORCEMENT; CHAD F. WOLF, in  
23 his official capacity as Acting Secretary of  
the United States Department of  
24 Homeland Security; and MATTHEW  
ALBENCE, in his official capacity as  
25 Acting Director of U.S. Immigration and  
Customs Enforcement,

26 Defendants.  
27

Case No. 3:20-cv-04621

**PLAINTIFF THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA’S EX  
PARTE MOTION FOR ORDER  
SHORTENING TIME RE: MOTION FOR  
TEMPORARY RESTRAINING ORDER  
AND ORDER TO SHOW CAUSE RE:  
PRELIMINARY INJUNCTION;  
DECLARATION OF JENNIFER S.  
ROMANO IN SUPPORT THEREOF**

[Civil L.R. 6-3]

Complaint filed: July 10, 2020

1 Plaintiff The Regents of the University of California (“The Regents”) hereby moves  
 2 pursuant to Civil Local Rule 6-3 for an Order Shortening Time for the Court to hear The Regents’  
 3 concurrently filed *Ex Parte* Motion for Temporary Restraining Order and Order to Show Cause  
 4 re: Preliminary Injunction (“TRO Motion”) to enjoin Defendants United States Department of  
 5 Homeland Security, Acting Secretary of Department of Homeland Security Chad F. Wolf, United  
 6 States Immigration and Customs Enforcement, and Acting Director of U.S. Immigration and  
 7 Customs Enforcement Matthew Albence (collectively, “Defendants”) from implementing their  
 8 July 6, 2020, memorandum (the “July 6 Directive”), which announced, *inter alia*, that “schools  
 9 adopting a hybrid model – that is, a mixture of online and in person classes –” must by August 4,  
 10 2020, certify to SEVP for each F-1 visa student attending such school that, among other things,  
 11 “the student is not taking an entirely online course load for the fall 2020 semester, and that the  
 12 student is taking the minimum number of online classes required to make normal progress in their  
 13 degree program.” Students for whom the school cannot so certify “must leave the country or take  
 14 alternate steps to maintain their nonimmigrant status such as transfer to a school with in-person  
 15 instruction . . . .” (“the Directive”). *See* Decl. of Jennifer S. Romano in Support of *Ex Parte*  
 16 Motion to Shorten Time, at ¶ 2. Due to the exigent circumstances created by Defendants’  
 17 Directive, which has immediate effect on universities and their students, The Regents has suffered  
 18 and will continue to suffer serious and irreparable injury that can only be redressed by the relief  
 19 sought in the TRO Motion. *Id.* at ¶ 3. Accordingly, The Regents respectfully requests that the  
 20 TRO Motion be heard by the Court on July 14, 2020, or the soonest date thereafter as the Court  
 21 may be available.

22 As set forth in the concurrently filed Declaration of Jennifer S. Romano and detailed in the  
 23 materials submitted in support of The Regents’ TRO Motion, The Regents respectfully maintains  
 24 that all of the requirements of Civil Local Rule 6-3 have been met.

25 1. Reasons for Requested Shortening of Time.

26 As detailed in the materials submitted in support of The Regents’ TRO Motion, immediate  
 27 relief is necessary to prevent substantial and irreparable damage to The Regents’ academic  
 28 community, including the immediate loss of valued international students and the erosion of any

1 gains made to date in protecting its community from an even higher rate of transmission of the  
2 potentially deadly COVID-19 virus. *Id.* at ¶ 3. The Directive creates economic harm to the  
3 University, the communities it serves and will prevent it from carrying out planned infrastructure  
4 and capital improvements to its campus facilities. *Id.*

5 2. Efforts Made to Obtain Stipulation.

6 On July 10, 2020, The Regents served Defendants with the summons, complaint, TRO  
7 Motion, and its supporting papers filed in this matter. *Id.* at ¶ 2. In addition, in-house counsel for  
8 Plaintiff, Margaret Wu, reached out with counsel for the California Attorney General’s Office,  
9 Lee Sherman, to counsel for the Defendants, Rayford Farquhar, to advise counsel for the  
10 Defendants of Plaintiff’s impending complaint and TRO Motion, and proposed a briefing  
11 schedule for the Court to hear The Regents’ TRO Motion on an expedited basis. *Id.* at ¶ 5. Ms.  
12 Wu was unable to reach an agreement or enter into a stipulation with Defendants to shorten time.  
13 *Id.*

14 3. Substantial Harm Will Occur if the Court Does Not Shorten Time.

15 As detailed in the TRO Motion, if the Directive is implemented, the University will suffer:  
16 international students integral to the university experience will be lost; international students’  
17 contributions to the University’s financial stability and the local economy will be lost; and gains  
18 in public safety could be eliminated if schools are forced to reopen prematurely. *Id.* at ¶ 2.

19 Normally, 35 days are required between the filing of a motion and the hearing. Civil L.R.  
20 7-2(a). If the Court does not shorten the time for hearing to less than 35 days and set a hearing  
21 date for July 14, 2020, or as soon thereafter as possible, The Regents will be forced to comply  
22 with an administrative policy that it contends is in violation of the Administrative Procedures Act  
23 and therefore unlawful. *Id.* at ¶ 4. In particular, The Regents will have to either consider revising  
24 plans to conduct courses in person rather than online as planned in contravention of the advice of  
25 health experts or inform thousands of international students that they may not attend courses at  
26 the University of California this fall in accordance with the Directive of ICE. *Id.* The date of  
27 mandatory orientation and check-in for students planning to attend Berkeley this fall is August 19,  
28 2020, less than a week after the earliest hearing date under a standard briefing schedule. *Id.* By

1 then, it will be too late to revise the curricula or provide reasonable notice to students that they  
2 will be expected to attend classes in person rather than online. *Id.*

3 4. The Underlying Disputes That Would Be Resolved in the Motion.

4 Plaintiff so moves, on the basis that it will demonstrate that (1) it is likely to succeed on  
5 the merits of its claims under the Administrative Procedure Act (“APA”); (2) Plaintiff and its  
6 students, including its international students who are in the United States on the nonimmigrant  
7 student visa known as the “F-1” visa, are likely to suffer irreparable harm in the absence of  
8 preliminary relief; and (3) the balance of equities and the public interest weigh heavily in favor of  
9 returning to the status quo existing prior to the issuance of the Directive. Plaintiff’s Motion is  
10 based upon the currently available administrative record, the declarations and exhibits submitted  
11 in support of this Motion, and on such further evidence and argument as the Court may consider  
12 at the hearing on this Motion.

13 5. Prior Extension.

14 There have been no prior extensions requested—by stipulation or otherwise—in this case.  
15 *Id.* at ¶ 6.

16 6. Effect on Schedule.

17 If granted, the requested extension will have no effect on the schedule. *Id.* at ¶ 6. The  
18 Regents filed its complaint on July 10, 2020, the same day as its *Ex Parte* Motion for Temporary  
19 Restraining Order and an Order to Show Cause re: Preliminary Injunction and the present Motion  
20 for an Order Shortening Time. *Id.* Nor has this Court issued its Order Setting Initial Case  
21 Management Conference, per Civil L.R. 16-2. *Id.*

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Dated: July 10, 2020

Respectfully submitted,

CROWELL & MORING LLP

By: /s/ Jennifer S. Romano

Jennifer S. Romano (SBN 195953)  
jromano@crowell.com  
Emily T. Kuwahara (SBN 252411)  
ekuwahara@crowell.com  
Crowell & Moring LLP  
515 South Flower Street, 40th Floor  
Los Angeles, California 90071  
Telephone: 213.622.4750

Charles F. Robinson (SBN 113197)  
charles.robinson@ucop.edu  
Margaret L. Wu (SBN 184167)  
margaret.wu@ucop.edu  
Allison M. Woodall (SBN 178533)  
Allison.woodall@ucop.edu  
Sonya U. Sanchez (SBN 247541)  
sonya.sanchez@ucop.edu  
UNIVERSITY OF CALIFORNIA  
OFFICE OF THE GENERAL COUNSEL  
1111 Franklin Street, 8th Floor  
Oakland, CA 94607-5200  
Telephone: 510.987.9800

Molly A. Jones (SBN 301419)  
mojones@crowell.com  
CROWELL & MORING LLP  
3 Embarcadero Center, 26th Floor  
San Francisco, California 94111  
Telephone: 415.986.2800

Thomas A. Lorenzen (*pro hac vice* forthcoming)  
tlorenzen@crowell.com  
Daniel W. Wolff (*pro hac vice* forthcoming)  
dwolff@crowell.com  
CROWELL & MORING LLP  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2595  
Telephone: 202.624.2500

*Attorneys for Plaintiff*  
**THE REGENTS OF THE UNIVERSITY OF  
CALIFORNIA**

**DECLARATION OF JENNIFER S. ROMANO**

I, Jennifer S. Romano, declare as follows:

1. I am a partner at Crowell & Moring LLP, counsel for Plaintiff The Regents of the University of California (“The Regents”). I make this declaration in support of The Regents’ Motion for an Order Shortening Time (the “Motion”) re: Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction (the “TRO Motion”). I have firsthand knowledge of the facts set forth in this declaration and could and would competently testify thereto if called upon to do so.

2. On July 10, 2020, The Regents served Defendants with the summons and complaint filed in this matter, as well as a Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction (“TRO Motion”) to enjoin Defendants United States Department of Homeland Security, Acting Secretary of Department of Homeland Security Chad F. Wolf, United States Immigration and Customs Enforcement, and Acting Director of U.S. Immigration and Customs Enforcement Matthew Albence (collectively, “Defendants”) from implementing their July 6, 2020, memorandum and news release, which announced, *inter alia*, that “schools adopting a hybrid model – that is, a mixture of online and in person classes –” must by August 4, 2020, certify to SEVP for each F-1 visa student attending such school that, among other things, “the student is not taking an entirely online course load for the fall 2020 semester, and that the student is taking the minimum number of online classes required to make normal progress in their degree program.” Students for whom the school cannot so certify “must leave the country or take alternate steps to maintain their nonimmigrant status such as transfer to a school with in-person instruction . . . .” (“the Directive”).

3. The Regents contends that due to the exigent circumstances created by Defendants’ Directive, which has immediate effect on universities and their students, The Regents has suffered and will continue to suffer serious and irreparable injury that can only be redressed by the relief sought in the TRO Motion. As detailed in the materials submitted in support of The Regents’ TRO Motion, The Regents contends that immediate relief is necessary to prevent substantial and irreparable damage to The Regents’ academic community, including the

1 immediate loss of valued international students and the erosion of any gains made to date in  
2 protecting its community from an even higher rate of transmission of the potentially deadly  
3 COVID-19 virus. The Regents contends that the Directive creates economic harm to the  
4 University, the communities it serves and will prevent it from carrying out planned infrastructure  
5 and capital improvements to its campus facilities.

6 4. If the Court does not shorten the time for hearing to less than 35 days and set a  
7 hearing date for July 14, 2020, or as soon thereafter as possible, The Regents will be forced to  
8 comply with an administrative policy that it contends is in violation of the Administrative  
9 Procedures Act and therefore unlawful. In particular, The Regents contends that it will have to  
10 either consider revising plans to conduct courses in person rather than online as planned in  
11 contravention of the advice of health experts or inform thousands of international students that  
12 they may not attend courses at the University of California this fall in accordance with the  
13 Directive of ICE. On information and belief, the date of mandatory orientation and check-in for  
14 students planning to attend Berkeley this fall is August 19, 2020, less than a week after the  
15 earliest hearing date under a standard briefing schedule. By then, The Regents contends it will be  
16 too late to revise the curricula or provide reasonable notice to students that they will be expected  
17 to attend classes in person rather than online.

18 5. On information and belief, on July 10, 2020, in-house counsel for Plaintiff,  
19 Margaret Wu, reached out with counsel for the California Attorney General's Office, Lee  
20 Sherman, to counsel for the Defendants, Rayford Farquhar, to advise counsel for the Defendants  
21 of Plaintiff's impending complaint and TRO Motion, and to proposed a briefing schedule for the  
22 Court to hear The Regents' TRO Motion on an expedited basis. Ms. Wu was unable to reach an  
23 agreement or enter into a stipulation with Defendants to shorten time.

24 6. There have been no prior extensions requested—by stipulation or otherwise—in  
25 this case. If granted, the requested extension will have no effect on the schedule. Nor has this  
26 Court issued its Order Setting Initial Case Management Conference, per Civil L.R. 16-2.

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO/OAKLAND DIVISION

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA, a California  
corporation,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY; U.S.  
IMMIGRATION AND CUSTOMS  
ENFORCEMENT; CHAD F. WOLF, in  
his official capacity as Acting Secretary of  
the United States Department of  
Homeland Security; and MATTHEW  
ALBENCE, in his official capacity as  
Acting Director of U.S. Immigration and  
Customs Enforcement,

Defendants.

Case No. 3:20-cv-04621

**[PROPOSED] ORDER GRANTING  
PLAINTIFF THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA'S  
MOTION FOR AN ORDER SHORTENING  
TIME TO HEAR THE REGENTS' EX  
PARTE MOTION FOR A TEMPORARY  
RESTRAINING ORDER**

Complaint filed: July 10, 2020

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Having considered Plaintiff The Regents of the University of California’s (“Plaintiff” or “The Regents”) Administrative Motion for an Order Shortening Time for the Court to Hear The Regents’ concurrently filed *Ex Parte* Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction (“Plaintiff’s Motion to Shorten Time”) and the papers and arguments submitted in support and in opposition, this Court finds good cause and hereby GRANTS Plaintiff’s Motion to Shorten Time.

The Court will schedule a hearing on Plaintiff’s *Ex Parte* Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction for Tuesday, July 14, 2020 at \_\_\_\_\_ a.m./p.m. Said hearing will take place at \_\_\_\_\_.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE