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International Student Resource Center

How to proceed after the court decision in the CPT case[1]

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This resource addresses how institutions should evaluate CPT policies following a November 17, 2026, court ruling concerning the August 2026 SEVP Broadcast Messages. Generally, decisions on how to react to the messages have been made above the international office level, involving general counsel and the college or university administration. This resource is therefore written with that audience in mind - to facilitate a conversation among the international advisers, general counsel and other interested parties at the school on how to move forward after the Judge's order.

This resource is not intended as legal advice, but rather to raise issues that are important to consider.

Curricular Practical Training (CPT) is one type of employment authorization for international students in the United States in F-1 immigration status. CPT was created by regulation in 1991 and is the main pathway for experiential education and internships. In August 2026, the Student and Exchange Visa Program (SEVP) at DHS issued two Broadcast Messages (August 12 and August 24) to international student advisers dramatically changing the government's position on how and when CPT might be authorized.

Consistent with the 1991 regulation, it has always been the case that CPT must be for an activity that is "integral" to the degree program. Before the Broadcast Messages, "integral" encompassed activity required for the degree or activity that receives course credit. The Broadcast Messages changed the interpretation to say that CPT is only for activities that are required for all students in that academic program. The messages also warned international student advisers not to be pressured into granting CPT.

CPT is an essential part of U.S. education. For a music student, CPT can include performance opportunities. For a computer science major, CPT can include internships. Practical learning opportunities through CPT have been a cornerstone of higher education in the United States.

What is the CPT case about?

On October 5, 2026, a group of higher education organizations filed a lawsuit challenging the Broadcast Messages. The group (the plaintiffs) argued that the Broadcast Messages are procedurally invalid under the Administrative Procedure Act (APA) because a major change in policy should be done in a formal way through publication in the Federal Register and a notice

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and comment period. They also argued that the Broadcast Messages are “arbitrary and capricious” under the APA because they failed to provide a reason for the policy change or to consider the reliance interests. More information about this lawsuit can be found here: CPT Litigation - Presidents' Alliance.

Current Case Status

On November 17, 2026, Judge Julia E. Kobick issued an order that grants the plaintiffs’ motion for a preliminary injunction protecting the plaintiffs, their members, and their member institutions’ employees and students, as well as the plaintiffs’ motion for an APA § 705 stay postponing the Broadcast Messages’ effective date pending judicial review. This means that DHS cannot implement, enforce, or apply the August 2026 SEVP Broadcast Messages while the litigation proceeds. Institutions may instead rely on pre-August 2026 CPT policy.

The Judge’s order recognizes that SEVP adopted a “new and contrary” CPT policy in the Broadcast Messages, as compared to longstanding pre-August 2026 CPT policy. In issuing a preliminary injunction, the Judge found that the plaintiffs are likely to succeed in their arguments that SEVP’s implementation of this new policy through the Broadcast Messages is unlawful. The Judge found this is so because SEVP did not acknowledge or explain its change in policy, and it did not consider institutions’ decades-long reliance on the pre-August 2026 CPT policy. The Judge also found that the plaintiffs have already experienced harm as a result of the Broadcast Messages, that the plaintiffs would continue to experience harm if the new policy remains in place while the litigation continues, and that fairness and the public interest favor granting the preliminary injunction. The preliminary injunction stops DHS from implementing, enforcing, or otherwise carrying out its CPT policy change, as reflected in the Broadcast Messages, both prospectively and retrospectively, as to the plaintiffs and each of their members (including members’ employees and students).

More broadly, the Judge stayed the August Broadcast Messages nationwide, determining that an APA § 705 stay (stay) is warranted. The Judge explained that APA § 705 allows courts to postpone the effective date of an agency action during litigation in order to prevent irreparable injury. The stay stops DHS from enforcing or applying the Broadcast Messages while the litigation continues.

Who is covered by the order and when does the order go into effect?
The order goes into effect immediately. And in granting the stay, the Judge ordered nationwide relief. That means DHS cannot enforce or apply the Broadcast Messages to any institution while the litigation proceeds, including institutions who may not be plaintiffs. The preliminary injunction, by contrast, protects only the plaintiffs and each of their members (including members’ employees and students).

Appeal or stay status
At the time of writing, the government has not appealed the Judge’s order.

This resource is not intended as legal advice, but rather to raise issues that are important to consider.

1. What should schools do now? If a school changed their policy in response to the Broadcast Messages, should they resume the CPT policies they followed before the Broadcast Messages?

This is the key question. In general, yes. The stay and preliminary injunction stop DHS from implementing the Broadcast Messages or changing the longstanding interpretation of CPT.

However, schools should still (if they have not already) do a census of their CPT usage to understand how CPT is used across the institution:

a. Do a fresh read of the regulations with counsel and identify whether changes should be made to better align practices with the pre-August 2026 CPT policy interpretations and expectations. Consider whether an institutional policy or practice needs to be made or updated, whether individuals need training, etc.
b. Consider whether some requirements may make pedagogical sense. For example, if 95% of undergraduate students are engaged in experiential learning, is it becoming a de facto requirement? Do faculty expect the students in their departments to complete experiential learning?
c. Develop documentation beyond the I-20 to have for the future (see Question 4 below).

2. If a school made a change to its policy because of the Broadcast Messages, what should it consider when deciding whether to revert back to pre-August 2026 CPT policy while the stay and preliminary injunction are in effect?

Schools should consider the scope of the order, the possibility of a later change in the litigation, their continuing compliance obligations, and the effects of their policies on students and academic programs.

The risks to institutions for reverting back to pre-August 2026 CPT policy is that DHS may appeal the injunction successfully or prevail in the litigation. With that said, based on the careful written arguments by the plaintiffs, and the fact that the injunction indicates that the Judge concluded the plaintiffs are likely to win on the merits, our view is that the government is unlikely to win on the merits. Federal court litigation tends to move slowly once it passes the initial urgent filings such as a motion for a preliminary injunction (the request made in this CPT case) or a request for a temporary restraining order.

Resuming eligible CPT while the stay and preliminary injunction are in effect may restore access to internships and other curricular opportunities for students. Institutions should nevertheless plan for the possibility that the Judge's order could be modified or reversed and that they may need to respond quickly. A preliminary ruling does not guarantee the litigation's outcome, but the Judge recognized that the Plaintiffs are likely to win.

The risk of not reverting to the pre-August 2026 CPT policy is that students challenge a school's policy for not allowing them to do internships or practicums they have secured. This would be based generally on contract law - that the school had an obligation to help the student do the internship, and the student suffered from the school not doing that.

It is important that academic course bulletin or catalogue language gives the institution the flexibility to change offerings and that students are not guaranteed experiences they cannot access legally.

3. What risks should a student understand when participating in non-required CPT while the stay and preliminary injunction are in effect?

Students should understand the importance of compliance with the laws that govern OPT and CPT. The government will continue to scrutinize these programs. Students who apply for an immigration benefit or status change in the future should be prepared to explain or document CPT at a consulate, with an H-1B petition, or at a green card interview. Students should be ready to answer questions about CPT in the future regardless of what happens now, and to be ready to explain that the CPT was done during the injunction period.

4. What documentation would be important for a student and/or school to keep related to integral but non-required CPT authorized while the stay and preliminary injunction are in effect?

There are several documents schools and students should keep. One document is a cooperative agreement, which the second Broadcast Message refers to. In the past, CPT has often been issued with a new I-20 form and little else. We recommend creating a cooperative agreement, even if it is 1-2 pages, to clarify how the school decided the CPT was integral to the curriculum. It should be signed by the employer, the school, and the student. Even if that document is not found to be required, it is a good way to make sure that each instance of CPT is documented in the future. There are a variety of sample cooperative agreements that are circulating around NAFSA.