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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY NL

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8 **UNITED STATES DISTRICT COURT**
9 **IN AND FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 CAL STATE EDUCATION)
12 CORPORATION, a California Corporation,)
13 dba CALIFORNIA TECHNICAL)
14 EDUCATION COLLEGE)

15 Plaintiff,

16 v.

17 UNITED STATES OF AMERICA,)
18 UNITED STATES DEPARTMENT OF)
19 HOMELAND SECURITY, UNITED)
20 STATES IMMIGRATION AND)
21 CUSTOMS ENFORCEMENT,)

22 Defendants.

Case No. **CV08-00104 GW**

**COMPLAINT FOR DECLARATORY
RELIEF, INJUNCTIVE RELIEF AND
DENIAL OF DUE PROCESS**

PJW

I/S
GO

21 Plaintiff CAL STATE EDUCATION CORPORATION, a California Corporation, dba
22 CALIFORNIA TECHNICAL EDUCATION COLLEGE hereby alleges as follows:

23 **INTRODUCTION**

24 1. Plaintiff seeks declaratory and injunctive relief prohibiting Defendants UNITED
25 STATES OF AMERICA, UNITED STATES DEPARTMENT OF HOMELAND SECURITY
26 and UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT (USICE), from
27 improperly taking full access of Student and Exchange Visitor Program (SEVP) away from the

1 plaintiff pursuant to Title 8, Code of Federal Regulations § 214.4(a)(3). Plaintiff also seeks to
2 redress for the USICE; the violation of Administrative Procedure Act, the Immigration and
3 Nationality Act, and substantive and procedural due process.

4 PARTIES

5 2. Plaintiff Cal State Education Corporation, a California Corporation, dba
6 California Technical Education College, is a language school issues I-20 for international
7 students in Los Angeles, California under SEVP provided by the U.S. Department of Homeland
8 Security. Plaintiff has been approved for I-17, Petition for Approval of School for Attendance by
9 Nonimmigrant Student with school code LOS214F1851000, and continued and continues to run
10 the school under I-17.

11 3. Defendant United States of America, Department of Justice, United States
12 Immigration and Customs Enforcement and its respective agents and employees, are responsible
13 for the administration and enforcement of the Immigration and Nationality Act, including the
14 Code of Federal Rules, regulations and procedures promulgated thereunder.

15 JURISDICTION AND VENUE

16 4. The Court has jurisdiction over the subject matter of this action pursuant to 28
17 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 2201 (Declaratory Judgment Act), 5
18 U.S.C. §701 et seq. (Administrative Procedure Act) and 8 U.S.C. § 1329 (Immigration and
19 Nationality Act).

20 5. Venue in this district is proper pursuant to 28 U.S.C. § 1391 (e) because the
21 plaintiff does business in this district, Los Angeles, California. In addition, plaintiff seeks relief
22 for violations of laws and regulations which have arisen out of the same transaction, occurrence
23 or series of transaction or occurrences.

24 GENERAL ALLEGATIONS

25 6. On or about Mach 29, 2007, SEVP officials inspected the plaintiff's school
26 campus to inspect the student files and interviewed plaintiff's school officials and students. And
27 on or about June 1, 2007, plaintiff has received the Student and Exchange Visitor Program
28

1 Notice of Intent to Withdraw from USICE for violation of Title 8, Code of Federal Regulations §
2 214.4(a)(1)(i), (v), (ix), (xiii), (xvi). Then plaintiff has replied to Notice of Intent to Withdraw,
3 and USICE has made the final decision and sent Withdrawal on Notice to plaintiff finding
4 plaintiff has violated Title 8, Code of Federal Regulations § 214.4(a)(1)(i), (v), (ix), (xiii), (xvi)
5 on or about October 19, 2007.

6 7. Plaintiff has filed the appeal on timely manner after the Withdrawal on Notice,
7 however, plaintiff has learned that USICE has blocked full access to SEVP for plaintiff to add or
8 create new students under the SEVP, issuing I-20 for the international students. Plaintiff has
9 demanded the full access of SEVP for plaintiff's new or prospective international students since
10 the plaintiff was granted access to SEVP until November 1, 2008, but USICE has e-mail the
11 plaintiff that USICE will not allow plaintiff have full access to SEVP even though the appeal on
12 this matter has been filed in prompt manner.

13 8. Pursuant to the Title 8, Code of Federal Regulations § 214.4(g) states "Decision.
14 The decision of the district director shall be in writing and shall include a discussion of the
15 evidence and findings as to withdrawal. The decision shall contain an order either withdrawing
16 approval or granting continued approval. The written decision shall be served upon the school or
17 school system, together with the notice of the right to appeal pursuant to part 103 of this
18 chapter." USICE has sent the Withdrawal on Notice of plaintiff's SEVP, and plaintiff made
19 appeal according to the regulation under the Code.

20 9. Further, anywhere under the Title 8 of Code of Federal Regulations does not give
21 USICE power over plaintiff to take away plaintiff's right to full access to SEVP system after
22 plaintiff has approved I-17, Petition for Approval of School for Attendance by Nonimmigrant
23 Student.

24 10. Plaintiff has had no opportunity for meaningful review through the purported
25 administrative process filed by plaintiff. Plaintiff has exhausted all available administrative
26 remedies and no further administrative procedures available to her, and USICE is violating and
27 abusing all of the administrative procedures against the plaintiff. Plaintiff is suffering severe and
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1 irreparable prejudice and harm by the passage of time and not able to use full access to SEVP
2 while attempting to exhaust futile administrative remedies, especially since USICE made it clear
3 that they will not allow plaintiff to use full access of SEVP regardless of the appeal was filed in
4 timely manner with existing statutory and regulatory requirements.

5 **FIRST CLAIM FOR RELIEF**

6 11. Plaintiff incorporates by reference each of the allegations set forth above in
7 paragraphs 1 through 10, inclusive, as though fully set forth herein.

8 12. An actual controversy has arisen and now exists relating to the rights and duties of
9 the parties herein in that Plaintiff contends that USICE's decision for not able to use full access
10 to SEVP was (a) not supported by substantial evidence, (b) was arbitrary and capricious, (c) was
11 a violation of due process since it was based on grounds that were not raised by the USICE on
12 Withdrawal on Notice, and (d) constituted a violation of Administrative procedure Act, while the
13 USICE contends that it has not committed such acts and acted at all times in a proper manner
14 towards this plaintiff.

15 13. An actual controversy has arisen and now exists relating the rights of the plaintiff
16 in that plaintiff contends that USICE has no right to take away full access to SEVP since the
17 plaintiff has filed the appeal with Department of Homeland Security, United States Citizenship
18 and Immigration Services and it is pending. Thus, the plaintiff contends that USICE has
19 extended the SEVP access of plaintiff until November 1, 2008, and USICE should grant full
20 access of SEVP to plaintiff.

21 14. Plaintiff desires a judicial determination of its rights under the Title 8 Code of
22 Federal Regulations, as well as a judicial determination that USICE's acts were not supported by
23 substantial evidence why plaintiff has no full access of SEVP and was arbitrary and capricious.
24 Further, the plaintiff is seeking exhaust all of the administrative remedies, however, USICE is
25 denying plaintiff to exhaust all of the administrative remedies since USICE knows that it will
26 give hardship for plaintiff to run the school without SEVP. And plaintiff is not able to exhaust all
27 of the administrative remedies.

1 21. As a result of the actions of the USICE as more fully set forth herein, plaintiff has
 2 been forced to retain legal counsel and incur attorneys fees in prosecuting this action. As a result,
 3 plaintiff is entitled to recover its attorneys fees, costs and related expenses pursuant to the Equal
 4 Access to Justice Act, 28 U.S.C. § 2412 et seq.

5 WHEREFORE, Plaintiff prays for relief as set forth below.

6 **THIRD CLAIM FOR RELIEF**
 7 **(DENIAL OF DUE PROCESS)**

8 22. Plaintiff incorporates by reference each of the allegations set forth above in
 9 paragraphs 1 through 21, inclusive, as though fully set forth herein.

10 23. Plaintiff is informed and believes that the USICE has engaged in a pattern of
 11 conduct designed to deprive Plaintiff of its constitutional rights to procedural and substantive due
 12 process as guaranteed by the Fifth Amendment of the United States Constitution as set forth
 13 above.

14 24. In denying full access of SEVP by plaintiff, while plaintiff filed the appeal after
 15 the Withdrawal on Notice was received, and USICE has neither indication nor explanation why
 16 plaintiff has no right to have full access to SEVP.

17 25. The USICE's actions as set forth above constitutes a violation of plaintiff's right
 18 to procedural due process and right to substantial due process.

19 26. As a result of the USICE's violations of due process, plaintiff has been or will be
 20 irreparably harmed.

21 27. As a result of the actions of the USICE as more fully set forth herein, plaintiff has
 22 been forced to retain legal counsel and incur attorneys fees in prosecuting this action. As a result,
 23 plaintiff is entitled to recover its attorneys fees, costs and related expenses pursuant to the Equal
 24 Access to Justice Act, 28 U.S.C. § 2412 et seq.

25 WHEREFORE, Plaintiff prays for relief as set forth below.

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PRAYER FOR RELIEF

Plaintiff prays for relief as follows:

1. A judicial declaration and judgment that:
 - a. Plaintiff has right to use or have full access to SEVP;
 - b. USICE's wrongful denial of full access to SEVP was not supported by substantial evidence, was arbitrary and capricious, and must be set aside;
2. For the issuance of a preliminary and permanent injunction as follows:
 - a. Enjoining the USICE from denying full access to SEVP by plaintiff;
3. Reserving continuing jurisdiction by this Court to ensure that the USICE complies with this order with regard to full access of SEVP by plaintiff until final decision by appeal decision by Department of Homeland Security, United States Citizenship and Immigration Services;
4. For an order awarding attorneys fees, costs and related expenses pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 et seq. and/or other similar statutes and regulations'
5. For such other and further relief as the court may deem just and proper

DATED: December 27, 2007

LAW OFFICE OF DAVID SOON Y. LEE

By 
David Lee
Attorney for plaintiff