

Senate Committee on the Judiciary
Questions for the Record from Senator Grassley
To Ms. Elizabeth H. Shuler

1. Ms. Shuler, the AFL CIO and other union groups have long opposed the H-1B program because of the impact it has on American workers. You and I would agree that all employers should have to recruit and hire Americans before they hire from abroad. I've argued, along with the AFL-CIO, that some companies are abusing this visa program in order to bring in lower skilled and cheaper labor. The Optional Practical Training program is an extension of the H-1B visa program. However, it doesn't have wage requirements or worker protections, making it worse for U.S. workers who must compete with foreign workers. Despite our concerns, however, President Obama decided to expand the OPT program. And, despite a GAO report saying that the program lacks oversight and students are abusing it, the President's executive actions make things worse. The administration's actions will incentivize more employers to use OPT to go around programs like the H-1B visa to hire cheaper labor. The longer foreign students are allowed to remain in the country, working under no rules, low wages and sub-par conditions, the less likely that legal visa programs will be used. Ms. Shuler, do you agree that the President's actions to extend the OPT program will hurt American workers?

First off Senator Grassley, I would like to thank you for continuing to champion H-1B and L-1 legislation with Senator Durbin over the years. H-1B and L-1 are in dire need of reform, not expansion. And employer claims that there is a STEM labor shortage are not supported by data¹.

While the AFL-CIO strongly supports deferred action and efforts to bring portability into the H-1B program, I share your concerns with this aspect of the President's announcement and agree that the Optional Practical Training (OPT) program should not be expanded without at least requiring that employers meet prevailing or market wages.

As currently structured, the OPT program is a guest worker program disguised as a student program. We understand that employers would like to be able to hire STEM grads for as long as four years through this proposed expansion, stretching the duration well beyond reasonable boundaries for a training program. Since no data is collected and shared about this program, we have no clear picture of the wages and working conditions for OPT recipients, but there have been numerous reports of abuses. Exploitation is a foreseeable outcome of a program that lacks basic wage protections, includes absolutely no testing of the labor market, and even fails to require federal employment and income tax payments.

Employers should not be allowed to use guest worker programs to suppress wages by bypassing, displacing or undercutting US workers. The AFL-CIO would like to work with you to ensure that new workers will be hired based on real labor market need and afforded full rights and protections, and also that proposed changes respect the needs and interests of American workers.

¹ See Department of Professional Employees, AFL-CIO Fact Sheet- The STEM Workforce: An Occupational Overview (2014), available at <http://dpeaflcio.org/wp-content/uploads/STEM-Workforce-2014.pdf>.