



Frequently Asked Questions (FAQ) About the UNNJ Settlement

This informational sheet prepared was prepared by Plaintiffs' Counsel (the law firm Kurzban Kurzban Tetzeli & Pratt) to answer frequently asked questions about the settlement in *Dong, et al. v. Johnson, et al.*, No. 17-cv-2092-ES-JSA (D.N.J.).

1. *When did the Settlement go into effect?*

The Settlement was granted final approval by the Court on May 3, 2022, and it went into effect on that date.

2. *Am I covered by the Settlement?*

You are covered by the Settlement if:

- You enrolled in University of Northern New Jersey ("UNNJ") for any length of time;
- You were found by the Government to have enrolled in UNNJ; **or**
- You are the spouse or child of a person who enrolled in UNNJ and you were accorded derivative student (F-2 nonimmigrant) status through your spouse or parent's enrollment in UNNJ.

3. *What benefits do I get under the Settlement?*

The main benefits of the Settlement are as follows. (For the full Settlement terms, please consult the Amended Settlement Agreement, available at: www.kktplaw.com/UNNJClassAction):

- **The Government will not rely on your UNNJ enrollment to find you inadmissible or deportable.** The Government will not rely on UNNJ enrollment¹ to find you inadmissible to the United States for committing fraud or making a material misrepresentation, or deportable from the United States for failing to maintain lawful status, unless the Government has evidence of violations of the law

¹ The Settlement defines "UNNJ enrollment" broadly to mean "initial enrollment in UNNJ and any matters, actions, materials, statements, or other information arising from, relating to, made from, or obtained through that enrollment." However, "[t]he mere fact that a matter, action, material, statement, or other information arose or was created after such UNNJ enrollment, based on the date of such subsequent matter, action, material, statement, or other information alone, is not enough to demonstrate that it was 'arising from, relating to, made from, or obtained through' that enrollment."

or of your ineligibility apart from your UNNJ enrollment.² If the Government intends to rely on such evidence to deny you immigration benefits, it must provide you with a copy of the evidence and an opportunity to rebut it.

- **The Government will not deny you immigration benefits based on your UNNJ enrollment.** If the Government has previously denied you immigration benefits based on your UNNJ enrollment, those denials will not negatively impact any future application for immigration benefits you may file.
- **You can retract any UNNJ-related misrepresentations made before UNNJ's closure.** If you made a misrepresentation relating to UNNJ before UNNJ's closure on April 5, 2016, the Government will not consider that misrepresentation to be "material" (and therefore will not find you inadmissible based on the misrepresentation) if you retract or correct the misrepresentation in a later filing, application, or interview.
- **If you are in removal proceedings or a final order of removal was issued against you, DHS will act as follows:**

| If ... | Then ... |
|---|--|
| You are currently in removal (deportation) proceedings. | DHS will file a motion to dismiss those proceedings by August 31, 2022. |
| A final order of removal was entered against you by an immigration judge. | DHS will move to reopen and dismiss your removal proceedings by August 31, 2022. |
| An expedited order of removal was entered against you by DHS. | DHS will rescind the expedited removal order by October 30, 2022. |

(If you were granted voluntary departure and departed the United States during the time allotted, DHS will not move to reopen the grant of voluntary departure).

- **The Government will not consider you to have accrued unlawful presence or to be out of lawful status during the period described in the table below. In**

² Such evidence includes, but is not limited to: (a) affirmative misrepresentations made to any government official about full completion of a degree program/graduation at UNNJ; (b) written statements signed by a class member which assert that the class member attended classes at UNNJ (but not including any misrepresentations contained in documents allegedly created by UNNJ such as transcripts or attendance sheets); (c) material misrepresentations about employment history at any time, before or after UNNJ enrollment; (d) material misrepresentations about marital status or any other material biographic details or identifiers; or (e) evidence pertaining to a limited number of class members who engaged in "broker conduct," as defined in the Settlement Agreement.

addition, you will not be considered ineligible for immigration benefits that require maintenance of lawful immigration status (or to be in lawful status at the time the application is filed) for matters arising during that time period. This means that, in all future applications for immigration benefits, you will be considered to have maintained lawful status during the time period listed below:

| If ... | Then ... |
|--|--|
| You are not currently in removal (deportation) proceedings and were never issued a final order of removal on account of your enrollment in UNNJ. | The time period runs from the date you enrolled in UNNJ through October 30, 2022 . |
| You are currently in removal (deportation) proceedings on account of your enrollment in UNNJ. | The time period runs from the date you enrolled in UNNJ through 180 days after the date your removal proceedings are dismissed pursuant to DHS's motion . |
| You were issued a removal order by an immigration judge. | The time period runs from the date you enrolled in UNNJ through 180 days from the date your removal proceedings are reopened and dismissed pursuant to DHS's motion . |
| You were issued an expedited removal order by DHS. | The time period runs from the date you enrolled in UNNJ through 180 days from the date DHS rescinds your expedited removal order . |

- **DHS—including USCIS—will expedite applications for immigration benefits (except asylum) filed during the time period described in the table above.** New applications for immigration benefits that are filed within that time period (or applications which were pending on May 3, 2022 when the Settlement was approved by the Court) will be adjudicated on an expedited basis as follows:
 - DHS will take initial action on such applications within 120 days of filing. (For applications already pending as of May 3, 2022, DHS will take initial action by August 31, 2022).
 - If DHS issues a Request for Evidence (“RFE”) or a Notice of Intent to Deny (“NOID”), it will take further adjudicative action within 90 days of DHS’s receipt of your response to the RFE or NOID.

To obtain expedited adjudication of applications submitted to USCIS, you must identify yourself as a class member by emailing DongSettlementFiling@uscis.dhs.gov. In the email, include:

- Your full name;
- The receipt number of the application; and
- If you have one, your alien registration number (also known as an “A number”). (If you have more than one A number, make sure to list all A numbers).

For more information on how to obtain expedited adjudication of immigration benefits, consult the *Instructions for Obtaining Expedited DHS Adjudications* sheet at www.kktplaw.com/UNNJClassAction.

- **You can apply for reinstatement to student status if you are admitted to a new school and meet other requirements.** DHS will apply special adjudication procedures to applications for reinstatement to student status (Form I-539) that are filed **by October 30, 2022** (or which were pending on May 3, 2022 when the Settlement was approved). DHS will adjudicate such applications without regard to the standard five-month filing window, your previous lack of status, or a prior denial of reinstatement. In addition, the requirements of 8 C.F.R. § 214.2(f)(16)(i)(A) (relating to maintenance of lawful status) and § 214.2(f)(16)(i)(F) (requiring that any violation of status be beyond the applicant’s control) will be deemed satisfied for such applications. **However, your application must still include a valid Form I-20 issued from a qualifying educational institution and comply with all other requirements for reinstatement.**

4. *Are there any deadlines I should know about?*

If you are in the United States without lawful immigration status, you have only a **limited time to apply for immigration benefits or depart the United States**. After the dates listed below, the Government may put you in a deportation proceeding if you have not yet applied for a qualifying immigration benefit:

| If . . . | Then . . . |
|---|--|
| You are not currently in removal (deportation) proceedings and were never issued a final order of removal on account of your enrollment in UNNJ. | You must apply for immigration benefits or depart the United States by October 30, 2022 . |
| You are currently in removal (deportation) proceedings on account of your enrollment in UNNJ. | You must apply for immigration benefits or depart the United States within 180 days from the date your removal proceedings are dismissed pursuant to DHS’s motion . |

| If . . . | Then . . . |
|--|--|
| You were issued a removal order by an immigration judge. | You must apply for immigration benefits or depart the United States within 180 days from the date your removal proceedings are reopened and dismissed pursuant to DHS’s motion. |
| You were issued an expedited removal order by DHS. | You must apply for immigration benefits or depart the United States within 180 days from the date DHS rescinds your expedited removal order. |

Under the Settlement, “immigration benefits” includes any benefit under the Immigration and Nationality Act, including adjustment of status (a “green card”); change of nonimmigrant status; extension of nonimmigrant status; and reinstatement of student status. However, for an immigration benefit to satisfy the requirements of this paragraph, you must be “prima facie” eligible (that is, you must appear to meet the eligibility requirements for the benefit at the time of filing). In addition (if applicable) a visa number must be available to you at the time the application is filed.³

5. *How will the Government know I am a class member when I apply for immigration benefits?*

When you apply for an immigration benefit, your application must clearly indicate that you are a class member in *Dong, et al. v. Johnson, et al.*, No. 17-cv-2092-ES-JSA (D.N.J.). We suggest you use the cover sheet attached to our *Instructions for Obtaining Expedited DHS Adjudications*, available at www.kktplaw.com/UNNJClassAction. Please consult that informational sheet for more details.

If you have been assigned more than one alien registration number (“A number”) you should also make sure all such A numbers are listed on your application.

³ For applicants for adjustment of status (a “green card”) under family- or employment-based preference categories, a visa number must be “available” according to the U.S. Department of State’s Visa Bulletin. The Visa Bulletin is published by the U.S. Department of State each month at this website: <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>.

6. *If the Government previously denied me an immigration benefit because of UNNJ, will the Government reopen and grant that application now?*

No. The Government will not automatically reopen applications for immigration benefits that were previously denied. However, under Section II.G. of the Settlement Agreement, the Government will not use a previous denial of immigration benefits based on your UNNJ enrollment against you in the future.

7. *Will the Settlement allow me to seek reinstatement to student status to complete Optional Practical Training (OPT)?*

Section II.K. of the Settlement Agreement provides that the Government will, to the extent possible, grant applications for reinstatement to student status that are filed within 180 days of the Agreement's effective date (in other words, those that are filed by October 30, 2022).

While the Settlement does not explicitly address OPT, nothing in it prohibits reinstatement for the purpose of pursuing OPT. However, class members must still meet all other requirements for reinstatement, including the submission of a new Form I-20 from a new educational institution. Thus, if a school is willing to issue an I-20 for the purpose of completing OPT, it may be possible to seek reinstatement for the purpose of completing OPT.

If you have further questions about your eligibility to pursue OPT, you should consult with your individual immigration attorney.

8. *Can I still qualify for benefits under the Settlement if I made misrepresentations to the Government related to UNNJ?*

It depends.

Generally, under the Settlement your enrollment in UNNJ and “any matters, actions, materials, statements, or other information arising from, relating to, made from, or obtained through that enrollment” can’t be used by the Government to find you inadmissible or to deny you immigration benefits.

That said, the Government may still find you inadmissible or deny you benefits if:

- You made an affirmative material misrepresentation about full completion of a degree program or graduation at UNNJ.
- You signed a written statement asserting that you attended classes at UNNJ (unless the statement appeared in a document created by UNNJ, such as a transcript or attendance sheet).
- You engaged in “broker conduct”—that is, you solicited others to enroll in UNNJ with actual knowledge that UNNJ was not and would not operate as a bona fide

school and that such enrollment was or would be a violation of law, and you did so in exchange for a monetary benefit from UNNJ.

- You made misrepresentations unrelated to UNNJ, such as misrepresentations about your employment history, marital status, or other biographic details or identifiers.

Before the Government can deny you an immigration benefit based on UNNJ-related evidence, it must first provide you with the evidence and give you the chance to rebut that evidence.

Finally, if you made any UNNJ-related misrepresentation(s) before UNNJ was closed on April 5, 2016, you can retract those misrepresentations so that they won't adversely affect you. To do so, you must (1) acknowledge the misrepresentation and (2) state that you are retracting it at the time you apply for a new immigration benefit (for example, in an application filed with USCIS or at a visa interview at a U.S. embassy or consulate).

9. Do I need to file a waiver application because of my UNNJ enrollment?

Generally speaking, no. Because the Settlement prohibits the Government from finding you inadmissible under INA § 212(a)(6)(C)(i) or deportable under INA § 237(a)(1)(C) based on your UNNJ enrollment, you generally should not have to seek a waiver for inadmissibility arising from your UNNJ enrollment.

However, as explained in Question 8, the Government may still find you inadmissible or deny you immigration benefits if you fall under any of the categories specified in Question 8. If you fall into any of those categories, you may still need a waiver.

If you have further questions about the need to apply for a waiver, you should consult with your individual immigration attorney.

10. What should I do if I am outside of the United States and I was previously denied a visa based on my UNNJ enrollment?

If you are outside of the United States and you were denied a visa at a U.S. embassy or consulate before May 3, 2022, you should reapply for the visa. Under Section II.G. of the Settlement Agreement, you cannot be denied a visa based on your UNNJ enrollment (or a prior denial of an immigration benefit based on your UNNJ enrollment).

You should bring a copy of the Amended Settlement Agreement to your visa interview and highlight the relevant provisions for the interviewing officer.

We strongly suggest that you work with an immigration attorney who can help you communicate with the embassy or consulate and prepare you for your visa interview.

11. What should I do if I am currently in removal proceedings?

The Department of Homeland Security (“DHS”) is responsible for moving to dismiss removal proceedings arising from a class member’s UNNJ enrollment. DHS must file those motions by August 31, 2022. You are not required to take any specific action. However, you should check your case status periodically to make sure that (1) DHS files a motion to dismiss your removal proceedings and (2) the immigration judge or Board of Immigration Appeals grants DHS’s motion and enters a final order dismissing your removal proceedings.

You should follow up with your individual immigration attorney periodically to ensure that DHS files the appropriate motion and that the immigration judge or Board of Immigration Appeals enters an order dismissing your removal proceedings.

You should take note of the date that your removal proceedings are dismissed because that date determines your deadline to apply for new immigration benefits or depart the United States if you are currently in the United States. See Question 4.

12. Do I need to attend my next hearing with the immigration court?

Yes. Unless your removal proceedings have been formally dismissed by an immigration judge, **you are required to attend all scheduled court hearings. The Settlement does not excuse your failure to appear for such a hearing.** Please ask your individual immigration attorney if you have any other questions about an upcoming immigration court hearing.

13. What should I do if I have a final order of removal?

If your final order of removal was entered by an immigration judge, DHS will file a motion to reopen and terminate your removal proceedings by August 31, 2022. Once that motion is granted by an immigration judge or the Board of Immigration Appeals, you will no longer have a final order of removal.

If your final order of removal is an expedited removal order, DHS will rescind that order by October 30, 2022.

DHS is required to take these actions even if you are currently outside of the United States.

You do not need to do anything for DHS to take these actions. However, you should follow up with your individual immigration attorney to check on the status of your individual case.

If you are currently in the United States, you should take note of the date that your removal proceedings are reopened and dismissed (or the date your expedited removal order is rescinded by DHS) because that date determines your deadline to apply for new immigration benefits or depart the United States. See Question 4.

14. *Do I need to do anything to make sure the Government modifies my immigration database records according to the Settlement?*

No. As stated in Section II.H. of the Settlement Agreement, DHS is responsible for modifying specified database records for all class members. No action on your part is required.

However, if you have been issued more than one A number, you must to list all known or previously used A numbers on all future immigration-related correspondence with any government official/agency requiring the listing of an A number.

15. *What should I do if the Government violates the Settlement?*

The Settlement provides for dispute resolution when a class member believes the Government has violated the Settlement in their case:

- If you believe **DHS** (including USCIS) violated the Settlement, you should contact DongSettlement@dhs.gov. Your message should explain why you think DHS violated the Settlement. Be sure to include your full name, the receipt number of the application at issue, and all alien registration numbers (“A numbers”) you have been assigned (if any). DHS should respond within 30 days.
- If you believe the **Department of State** violated the Settlement, you should contact LegalNet@state.gov. The subject line of the email should read: **UNNJ SETTLEMENT AGREEMENT COMPLIANCE DISPUTE, [YOUR FULL NAME], [YOUR DATE OF BIRTH], [YOUR VISA CASE NO.], [YOUR PASSPORT NO.]**. Your message should explain why you think the Department of State violated the Settlement. The Department of State should respond within 60 days.

Please send Plaintiffs’ Counsel (UNNJClassAction@kktplaw.com) a copy of whatever you send to the Government.

If you’re not able to resolve your issue using the procedures above, please contact Plaintiffs’ Counsel at UNNJClassAction@kktplaw.com.

16. *What should I do if I have other questions?*

You can address general questions about the Settlement to Plaintiffs’ Counsel at UNNJClassAction@kktplaw.com. Please understand, however, that we cannot provide individualized legal advice specific to your case. You must hire a lawyer separately if you want individualized advice.

Although we have tried to explain the Settlement as clearly as possible, immigration law is complex. As a result, so too is the Settlement. We therefore urge you to seek the advice of an attorney if you are unsure about what you should do or how the Settlement affects you.