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MEMORANDUM

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To: International Education Program Administrators

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1) The President's Immigration Accountability Executive Actions

On November 20, President Obama announced his "Immigration Accountability Executive Action". This long awaited initiative covers many program directives, guidelines, and regulations. Some of the highlights are:

◆ DACA

The DACA program, which previously required that the applicant be under the age of 31 on June 5, 2012, has been modified. Although the applicant must still have entered the United States prior to the age of 16, there is no longer an upper age limit. Further, DACA status, which previously was available in two year increments, will be expanded to three years with employment cards also valid for three years. The prior date of June 15, 2007 by which individuals were required to be present in the United States has been extended to January 1, 2010. It is expected that these changes will become effective approximately 90 days from November 20, 2014.

◆ DAPA

A new program referred to as "Deferred Action for Parental Accountability" (DAPA) will permit deferred action for parents of individuals who were United States citizens or lawful permanent residents as of November 20, 2014, provided the parent was present in the United States since January 1, 2010 and had five years total presence in the United States before that date in non-lawful status. It is possible that there will be a requirement for payment of back taxes, and a filing fee of \$465.00. The deferred action period will be for three years. It is expected that applications will be accepted within 180 days after November 20, 2014.

◆ Legal Immigration Reforms

Legal immigration reforms consist of many different modifications of legal guidance and regulations among which are technical changes in application processing for green cards, elimination of derivative spouses and children from quota accountability, and reform of the system by which visas are counted against the quota. Specifically, in the green card context although presently a quota number must be available before a green card (I-485) application is filed based on an approved visa petition, that I-485 application will be permitted to "pre-register" thereby permitting applicants and their derivatives to work and travel during the quota backlog, and eliminate unnecessary nonimmigrant visa extensions. Also, because of the complexity of the permanent visa allocation methodology, many family and employment based visas go unused at the end of each fiscal year although there is demand for all places, thus the need for a reform of quota counting methodology. Further, derivative spouses and children of employment

based immigrant applicants will no longer be counted against the quota which will increase the number of places for beneficiaries-thereby freeing up many places and, potentially, substantially lessening or eliminating long employment based green card backlogs.

The EB-2 permanent green card national interest waiver category is also to be better defined and expanded to cover entrepreneurs, primarily working in the technology area.

The Permanent Labor Certification "PERM" program will also be redesigned to identify labor force occupational shortages and surpluses, and to have the system operate within reasonable case processing time frames, and with the possible use of "premium processing". The system would also include a manner to deal with non-material errors. Since its institution, the PERM system has become extremely rigid as well as non-responsive to labor market conditions. It also takes far beyond its original anticipated timeframes to complete.

Optional Practical Training is also in for some changes, both positive and restrictive. ICE and USCIS have been directed by the Secretary of the Department of Homeland Security to develop regulations to expand the degree programs eligible for STEM OPT, (although, that list is administered by the Department of Education). It is also possible that the 29 month STEM OPT limit will be extended. However, a definite time period has not been mentioned. The Secretary's directive is also requiring "stronger ties" to the degree granting institution during the OPT period, and ICE and USCIS are being directed to develop regulations to ensure that OPT is consistent with U.S. labor market protections to safeguard the interests of U.S. workers in related fields. Although no details are presently available for any of these concepts, it would appear that the agencies may want some movement toward an OPT system that recognizes Labor Department shortages. This issue was present in the 'Gang of 8' bill, which passed in the Senate in June of 2013.

It is also expected that the "Proposed regulation" for H-4 spouse employment will be finalized by January. Of interest is that if other reforms are successful in lessening or eliminating quota backlogs as well permitting provisional filing of I-485 applications, this regulation would no longer be needed.

There are many additional employment based technical proposals as well as enforcement changes.

Although DACA may take 3 months, and DAPA 6 six months for implementation, most other changes are unscheduled and, in all likelihood depend on the flexibility of ICE and USCIS administrators.

2) SEVP Developments

◆ SEVP Response Center and SEVIS Help Desk Merge

SEVP has announced that the Response Center and the Student and Exchange Visitor Information System (SEVIS) Help Desk “have recently merged to enhance customer service and to continue to improve SEVP operating efficacy”. The notice mentions that beginning November 3, callers to the SEVP Response Center or to the SEVIS Help Desk will receive a new interactive voice recording. This recording will ask for the nature of your call and route you to the appropriate SEVP official to address your questions.

The contact information for the SEVP Response Center and Help Desk remains the same. To contact the SEVP Response Center for general SEVP-related questions or SEVIS-related technical questions, please call 703-603-3400 or 1-800-892-4829 between the hours of 7 a.m. to 8 p.m. ET. You can still email SEVP@ice.dhs.gov with your questions and comments.

◆ New Class of SEVP Field Reps “Deployed”

On November 17, ICE’s Office of Public Affairs announced that SEVP had deployed 14 additional Field Representatives across the country. With these 14, SEVP now has 28 Field Reps based in 21 states across the country. The announcement includes success stories achieved by the first class, among other things, and may be found [here](#).

◆ SEVP Quarterly Report

On November 13, SEVP released its Quarterly Report on International Students Studying in the US-“SEVIS by the Numbers”. As of October 7, there are 1.11 million international students with F or M visas at 9,000 US schools, a nine percent increase to the same period since last year. 75% are from Asia, with China and Vietnam having the greatest percentage increase. USC, NYU, Colombia, Purdue, and the University of Illinois are the 5 top schools for international students. Nearly 400,000 pursued STEM coursework in October of which 69 percent were male and 89 percent were Asian. Engineering, with 27 percent is the highest STEM field. The full report may be found [here](#).

3) F, J, and M Visas for China now Valid for 5 Years and Multiple Entries.

On November 10, the State Department advised that beginning November 12, the United States and China have reciprocally increased the validity of short term business, tourist, student, and exchange visas. F-1, F-2, J-1, and J-2 visas will now be available for 60 months and multiple entries. Tourist visas in the B-1 or B-2 category will be available for 120 months and multiple entries.

4) USCBP-NAFSA Liaison Call Recap

The NAFSA.news of November 18, 2014 carried a summary of information reported during a CBP-NAFSA liaison call on October 8 in which there are many goodies including: CBP will still recognize an old but still valid visa for a student who has been out of the United States for more than five months. The entire summary may be found at NAFSA.news.

5) Vermont Service Center Stakeholder Conference of October 24, 2014

On October 24, 2014 the Vermont Service Center held its Fall, 2014 Stakeholder Conference. At the conference, it was noted that there is a new email address for I-765 student inquiries: VSC.StudentEAD@uscis.dhs.gov.

It was also mentioned that there is a current backlog of 1,000 I-539s, and that new officers have been trained to process these forms. VSC feels that this should help reduce processing times. Experience may prove that it will result in an increase of RFEs.

VSC also provided the following guidance to reduce the number of RFEs in reinstatement cases:

A few quick suggestions for more successful reinstatement applications:

- Include all required items and evidence
- Tell the story, explain the exceptional or unusual circumstances
- Ignorance is not an acceptable basis for reinstatement
- Frequent violators are very unlikely to be approved
- If the applicant is legally inadmissible to the U.S., she/her will not be approved
- If the reason is medical, include records that match the reason

6) Two Year Home Residence Requirement Waiver Statistics

The Department of State recently released its latest statistics on Section 212(e) waiver recommendations for the 2014 fiscal year. Of the 5,068 no objection statements, 4,951 were favorable; 270 exceptional hardship requests resulted in 252 favorable. 57 of 57 persecution applications were recommended, and 128 of 131 Interested Government Agency waivers were granted. Of the 1791 advisory opinions, 816 were found subject and 925 not subject.

7) TPS Announced for Liberia, Guinea, and Sierra Leone

On November 20, 2014 the Department of Homeland Security announced that Liberia, Guinea, and Sierra Leone would receive Temporary Protected Status for an 18 month period due to the outbreak of the Ebola virus in West Africa. Therefore, eligible nationals of these three countries currently residing in the United States may apply for TPS, effective November 21, 2014. TPS will permit these individuals to reside in the United States and obtain work authorization through May 20, 2015.

8) Tri-Valley University President Sentenced

On November 4, 2014, several news media reported that Susan Xiao-Ping Su, the founder and president of Tri-Valley University in Pleasanton, California was sentenced to more than 16 years in prison for running what was characterized as “a sham university that served as a front for an immigration scam.”

Ms. Su was also ordered to forfeit \$5.6 million dollars and pay more than \$900,000 in restitution. The actual conviction was for visa fraud, among other charges. Testimony had been received that there had been no graduation nor admission requirements, and that Ms. Su had instructed her staff to fabricate transcripts and other documents. The story noted that these documents were sold mostly to Indian nationals.

Many thanks for your comments, your suggestions and your confidence in us, and for referring your students, scholars and faculty members.

Please let us know if you have any questions, or if you would like copies of any of the materials covered.

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