

**LAW OFFICES OF
EUGENE GOLDSTEIN AND ASSOCIATES
150 BROADWAY, SUITE 1115
NEW YORK, NY 10038
212-374-1544
Fax 212-374-1435
EGLAW@AOL.COM
<http://www.eqlaw-group.com>**

December 1, 2011

Eugene Goldstein

**Lawrence Goldstein
Lucy G. Cheung
Michael J. Goldstein**

MEMORANDUM

Jacqueline Singh
Ana Peña
Legal Assistants

To: International Education Program Administrators

Spring is coming – and for many students so is life after F-1. As many of you know, our firm gives presentations at schools for international students without charge.

Please let us know if you would like us to come to your campus.

- 1) H-1B Cap Reached on November 22, 2011
- 2) SEVP Publishes I-17 User Manual
- 3) DOS Developments
 - a) DOS Discusses Global Travel Growth
 - b) DOS Discusses F-1 Visa Processing Expedites
 - c) DOS/SEVP CCD Down From November 14, 2011 to November 18, 2011
 - d) DOS Releases Overview of U.S. Consulate's Ability to Provide Services
 - e) DOS Caps J-1 Summer Work/Travel Participants; Places Moratorium on New Sponsor Applications
 - f) DOS Reports on DV12 Lottery Failure
- 4) TPS, Etc.
 - a) TPS Extended for Honduras and Nicaragua
 - b) Relief Provided for Central American Nationals Stranded by Extreme Flooding

1) H-1B Cap Reached on November 22, 2011

Late in the afternoon of November 23, 2011 USCIS announced that the 65,000 cap for the H-1B non-immigrant category for fiscal year 2012 was reached on November 22, 2011 and that November 22nd would be the final receipt date for new H-1B petitions. The petition would have had to be received by USCIS on November 22, not merely postmarked.

The 20,000 cap for advanced degree applications had already been reached on October 19, 2011.

The fact that the 65,000 cap was reached on November 22nd came as a bit of a surprise. On November 22nd an announcement had been made that as of November 18, 2011 61,800 cap subject petitions had been receipted. Therefore, 3,200 places were used in four days. It may be remembered that in both 2011 and 2010 the cap had been reached at least five weeks later than it was this year. It is unknown what factors caused H-1B numbers to be fully utilized at an earlier date than in the past two years.

2) SEVP Publishes I-17 User Manual

On November 9, 2011 AILA announced that ICE SEVP had published the "User Manual for School Users of the Student and Exchange Visitor Information System Version 6.8; Volume 1 Form I-17." The publication is dated June 24, 2011 and consists of one hundred eight pages.

3) DOS Developments

a) DOS Discusses Global Travel Growth

On October 24, 2011 DOS distributed a "Fact Sheet" which discussed visa issuance among the two hundred twenty two visa issuing embassies and consulates. Among other statistics regarding increased applications for visas, it was noted that DOS was committed to increasing visa adjudications by one third in fiscal year 2012 in both China and Brazil, both countries having seen the greatest increase in visa demand over the last several years. Ninety eight visa adjudicators are being sent this and next year to China and Brazil. Both groups are being hired through a pilot program targeting applicants who already speak Mandarin or Portuguese. Further, at some posts in China and Brazil hours of operation are being "significantly extended."

b) DOS Discusses F-1 Visa Processing Expedites

On November 14, 2011 DOS distributed a “Media Note” regarding expedites of student visa processing. The Note recognized International Education Week and mentioned that the maximum wait for a student visa appointment is fewer than fifteen days, and that students can apply for visas up to one hundred twenty days prior to the beginning of their academic program. It was noted that in 2010/2011 international education grew by nine percent and that foreign students studying in the U.S. brought in \$21.3 billion into the domestic economy. It was also noted that “Most importantly, educational exchanges provide mutual understanding, respect and goodwill between Americans and people around the world.”

c) DOS/SEVP CCD Down From November 14, 2011 – November 18, 2011

On November 18, 2011 SEVP distributed a “Broadcast Message” that the State Department had identified difficulties with its Consolidated Consular Database (CCD) which communicates with SEVP and SEVIS. The problem was discovered on November 14th. As a result of this communications difficulty the State Department temporarily halted issuance of F, M, and J visas at all U.S. embassies and consulates.

On November 21, 2011 a “Broadcast Message” was distributed that the problem had been resolved as of the close of business November 18, 2011, and that U.S. embassies and consulates had been ordered to resume issuance of F, M, and J visas immediately.

d) DOS Releases Overview of U.S. Consulate’s Ability to Provide Services

On November 17, 2011 the State Department listed “Countries with Limited or No U.S. Visa Services.” The list may be found [here](#). In short, visa services have been suspended in Minsk, Belarus; Asmara, Eritrea; and Tripoli, Libya. There are presently no visa services in Iran, North Korea, and Guinea-Bissau. Further, there are no visa services in the Caribbean countries of Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines. Applicants from those countries must go to Bridgetown, Barbados or Port of Spain, Trinidad. It was also noted that the following posts have limited visa services: Abidjan, Cote D’Ivoire; Helsinki, Finland; Podgorica, Montenegro; Curacao, Netherlands Antilles; Jeddah, Saudi Arabia; and Damascus, Syria.

e) DOS Caps J-1 Summer Work/Travel Participants; Places Moratorium on New Sponsor Applications

As a result of a scandal regarding the Summer Work Travel Program, the program will remain at current participant levels and there will be a moratorium on new sponsor applications. Previously, participants who had come to the United States for what they thought would be positive summer learning experiences, were found to have been exploited by J-1 work contractors. Allegedly an approved summer work J-1 sponsor had contracted participants to do heavy physical labor at the Hershey's plant in Hershey, Pennsylvania. Participant complaints were picked up by the union at the plant as well as by individual complaints to DOS. The story broke in the *New York Times* during the summer.

f) DOS Reports On DV-12 Lottery Failure

On October 13, 2011 the DOS Office of Inspector General (OIG) issued a "Memorandum Report" reviewing the fiscal year 2012 Diversity Visa Program Selection Process which had originally been defective and for which the results were withdrawn. As stated in the report:

The OIG team found three problems that led to this failure, all of which stem from the lack of adherence to sound project management and systems development principles. First, CA's [Bureau of Consular Affairs] Office of Consular Systems and Technology (CST) implemented a system programming change without performing adequate testing. Second, CST changed contract task orders without notifying the Office of Acquisition Management (AQM). Third, CST management failed to adequately discuss the changes with all stakeholders and thus did not fully understand how overseas consular officers administer the DV program.

A Notice appeared in the "Federal Register" of November 7, 2011 at page 68,808.

Hopefully, these problems are being addressed.

4) TPS, Etc.

a) TPS Extended for Honduras and Nicaragua

The Department of Homeland Security has announced that TPS for both Honduras and Nicaragua is being extended for an additional eighteen months beginning January 6, 2012 and ending on July 5, 2013. Re-registration must take

place during the sixty day re-registration period running from November 4, 2011 to January 5, 2012. TPS for both Honduras and Nicaragua began on January 5, 1999.

There are approximately 64,000 nationals of Honduras who may be eligible to re-register and 3,000 nationals of Nicaragua who may be eligible to re-register.

b) Relief Provided for Central American Nationals Stranded by Extreme Flooding

It was also announced on November 1, 2011 that extreme flooding in Central America has caused USCIS to remind nationals of countries in that area of temporary relief measures which may include change or extension of nonimmigrant status, re-parole, extension of certain grants of advanced parole with expedited processing, expedited adjudication of F-1 off campus employment authorization due to severe to economic hardship, expedited processing of immigrant petitions for immediate relatives of U.S. citizens and permanent residents, expedited processing of employment authorization, and assistance to permanent residents of the U.S. who are stranded overseas without documents. This form of relief is similar to that which was offered by USCIS after the recent disasters in Japan. The announcement may be found [here](#).

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

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

Note: The information provided in this Memorandum is not legal advice. Transmission of this information is not intended to create, and receipt by you does not constitute, an attorney-client relationship. Readers must not act upon any information without first seeking advice from a qualified attorney. Neither the publisher, nor any contributor is responsible for any damages resulting from any error, inaccuracy, or omission contained herein.