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MEMORANDUM

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To: International Education Program Administrators

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1) An Editorial on SEVP's "Spotlight"

We have just seen a copy of the October 2013 (Volume 3, Issue 4) of SEVP's Spotlight.

This official publication of the "Department of Homeland Security Investigations" provided some interesting insights into the philosophy underlying SEVP's mission and its implementation.

After the tragedy of 9-11, it may be remembered, Congress was looking for a fast and easy national security fix. An electronic international student control vehicle was already being tested called CIPRIS. Although CIPRIS was viewed by many as a failure which was to be abandoned and scrapped, it was available to show the public that something was being done for national security. This quick fix was especially valuable in light of the soon to be fallacious national mythology that the 9-11 hijackers were F-1 students, lapsed or otherwise. CIPRIS evolved into SEVIS.

After the breakup of the Immigration and Naturalization Service (INS) into three agencies: US Citizen and Immigration Services (USCIS) for service and benefits; US Customs and Border Protection (USCBP) for Border Control and Admissions; and US Immigration and Customs Enforcement (USICE) for police functions - administration of international education, formerly seen as a service function, was placed under ICE's authority with a changed mission of national security protection. Other roles of international education such as a tool of foreign policy and international understanding, or higher education economics were downplayed or ignored.

Although, SEVP likes to come across as a smiling face, "Spotlight" demonstrates otherwise. On page one are directions on how you can report fraud or abuse at your school! Further in the issue are encouragements to ask questions for "guidance", and a list of issues undergoing guidance development. Putting aside serious legal concerns about just what is informal "guidance" and what constitutes substantive regulatory guidance which must, by law, go through "Federal Register" proposed rulemaking and then final rulemaking, there are very serious questions about when and why guidance should be sought. Considering the "national security" mission of SEVP, should a question be asked regarding an ill-defined or gray area which will be answered in an enforcement oriented restrictive manner. In other words, if you might not like the answer, should you ask the question?

Considering the huge role that SEVP plays in international education, it would not be unreasonable for them to provide actual solid statistics to reflect the success of their national security based mission. In 10 years there have been none. If SEVP seeks the respect and cooperation of the international education community - a report on its effectiveness to our national security is warranted.

SEVP Spotlight for October 2013 may be found [here](#).

2) Regulation Developments

❖ ICE Proposal to Add DSOs, and to Permit Dependents to Study

On November 21, 2013 ICE published a “Notice of Proposed Rulemaking for SEVP” in the “Federal Register.” This proposal amends SEVP regulations to permit schools to nominate more than ten DSOs on each campus. The rule also would permit accompanying spouses and children of F-1 students to enroll in study at an SEVP-certified school, so long as any studying is below a full course of study. Comments are due on or before January 21, 2014. The proposal may be found [here](#).

The proposed regulation is positive and was promulgated at the suggestion of the Department of Homeland Security’s Homeland Security Academic Advisory Council. The regulation provides greater flexibility to large campuses needing more than ten DSOs, and also provides an incentive for international students to study in the U.S. by permitting study opportunities, primarily, for spouses.

There are, however, a few interesting items.

In discussing the background of SEVP, the proposal mentions that SEVP serves as the “central liaison” between the U.S. educational community and the interested U.S. government organizations. It then goes on to note that SEVP “manages and oversees” significant elements of the process by which educational institutions interact with F, J, and M individuals. This tension regarding SEVP’s role as a liaison, or as a manager has been pervasive since SEVP began its functions.

The regulation goes on at page 69,781, in discussing study by F-2 and M-2 spouses and children, to say:

In addition, the proposed change would limit F–2 and M–2 study, other than avocational or recreational study, to SEVP-certified schools. This requirement would make it more likely that the educational program pursued by the F–2 or M–2 nonimmigrant is a bona fide program and that studies at the school are unlikely to raise national security concerns, in light of their successful completion of the SEVP certification process. Under the proposed rule, the F–2 or M–2 nonimmigrants could still participate full-time in avocational or recreational study (i.e., hobbies and recreational studies).

This statement would appear to infer that avocational or recreational study may be non bona fide, and also raises concerns regarding national security. However, these avocational or recreational studies are still acceptable, even though they are not regulated. Query?

Finally, the Regulatory Analysis and Summary found on page 69,782 provides a cost benefit analysis for the cost of hiring additional DSOs. It is noted that DHS believes that up to eighty eight schools may choose to increase their number of DSOs above ten. Thereafter, SEVP does a cost benefit analysis for the cost of each individual DSO. The proposal then notes that “DHS estimates that current training and documentation requirements for a DSO to begin his or her position equate to seven hours total in the first year.” Although this statement is not a substantive part of the actual regulation it does provide an insight into how DHS and SEVP evaluate the work of the DSO.

❖ Department of Labor Ends 1990 F-1 Pilot Work Rules

As a result of the Immigration Act of 1990, and several amendments thereafter, the Department of Labor created a pilot program for F-1 students to work off campus for up to twenty hours each week if an employer provided an attestation to DOL and to the educational institution that it unsuccessfully recruited for the position for at least sixty days and would pay the actual wage at the work site or the prevailing wage in the area of employment. The program was established as a three year pilot program in 1994 and expired on September 30, 1996. It was never used and has not been long remembered. The Labor Department has filed a “Final rule” published in the “Federal Register” on November 20, 2013 eliminating their regulations for the program. Assumedly, they have been too busy to deal with it for the last seventeen years. The “Notice” may be found [here](#).

3) Department of State “Updates” Contact Information for Inquiries

Nancy McCarthy, Consular Officer for the Bureau of Consular Affairs of the Visa Office recently distributed an email update regarding the use of its dedicated public inquiry e-mail box for students and exchange visitor queries. Her update said:

In the interest of greater efficiency, the Bureau of Consular Affairs Visa Office is discontinuing the use of our dedicated public inquiry e-mail box for student and exchange visitor queries (fmj@state.gov) immediately.

Henceforward, student and exchange visitor visa inquiries can be directed to our general public inquiries telephone number (202) 485-7600, Monday to Friday, 8:30am to 5:00pm, Washington, D.C. time. This will allow us to respond to inquiries regarding student/exchange visitor visa matters in a more timely manner.

In addition, inquiries from exchange visitor visa holders regarding waivers of the two year foreign residency requirement or other 212(e) matters can be directed to a new, dedicated e-mail box 212ewaiver@state.gov. This box is currently operational.

Travel.State.Gov has been updated to reflect these changes.

Yes, I too needed to read the first and second paragraphs twice. It would appear that the State Department is now officially using Orwellian double speak to obfuscate an elimination of a service.

4) CBP Provides I-94 Access, and Will Store Entry Records for Five Years

The CBP liaison minutes of a meeting held between AILA and CBP on October 28, 2013 noted, among other things, that:

There is no time lag between data entry and data accessibility on the I-94 website...[It is therefore,]... possible that an entrant who wants to obtain a printout at the airport can use a smart phone to confirm that their information is online. If the entrant has already left the secure inspection area, she/he can then go to the deferred inspection office in order to obtain any assistance to either locate a record, correct a record, or obtain a printout.

CBP has also advised that it is taking action to have the website www.CBP.gov/I-94 contain admissions data going back five years. This information will be helpful in preserving data needed for benefit eligibility at later dates.

5) NAFSA Region X Visits JFK Port of Entry

On October 10, 2013 members of NAFSA Region X were given a tour of the JFK port of entry facilities of CBP. Region X Regbuds Gwyneth Smith and Lucy Cheung have drafted a Q&A with many interesting goodies. A copy of the Q&A transcript may be found [here](#).

6) “Study in the States” Posts “I-901 SEVIS Fee Payment Tutorial”

The Study in the States website is now streaming a tutorial video on I-901 SEVIS Fee Payment. The tutorial may be found [here](#).

7) TPS Extended for Somalia

The “Federal Register” of November 1, 2013 carried a “Notice” from USCIS extending the designation of Somalia for Temporary Protected Status for eighteen months from March 18, 2014 through September 17, 2015. The extension resulted from the continuing substantial disruption of living conditions in Somalia based upon the armed conflict. The re-registration period is from October 31, 2013 through December 30, 2013. Somalis who have not previously applied for TPS may be eligible to apply under specific late initial registration provisions, including continued residence in the U.S. since May 1, 2012. There are approximately 400 Somali TPS beneficiaries expected to be eligible for re-registration. The “Federal Register Notice” may be found [here](#).

8) USCIS Reminds Filipino Nationals Impacted by Typhoon Haiyan of Available Relief

On November 15, 2013 USCIS reminded Filipino nationals impacted by Typhoon Haiyan of available immigration relief measures. In the student context these include: expedited adjudication and approval, where possible, of requests for off-campus employment authorization for F-1 students experiencing severe economic hardship, and expedited adjudication of employment authorization applications, where appropriate. The USCIS notice may be found [here](#).

Many thanks for your comments, your suggestions and your confidence in 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.

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