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October 1, 2015

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MEMORANDUM

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To: International Education Program Administrators

- 1) DOS Announces DV-2017 Diversity Lottery
- 2) Permanent Resident "Visa Bulletin" Amended
- 3) SEVP Issues "SEVIS by the Numbers"
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- 5) Yemen Designated for TPS
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- 1) DOS Announces DV-17 Diversity Lottery

On September 30, the State Department published "Instructions for the 2017 Diversity Immigrant Visa Program (DV-2017)". According to DOS instructions entries must be submitted electronically at: www.dvlottery.state.gov between noon, EDT (GMT-4) Thursday, October 1, 2015 and noon, EST (GMT-5), Tuesday, November 3, 2015. Results will be obtainable starting May 3, 2016 at the same email address by using the confirmation number obtained upon entry. There is no change in eligible countries since last year.

We assume that DOS's delay in posting the DV Lottery announcement until the last minute was due to the issues it had with the October "Visa Bulletin" mentioned in item two of this memo. Our annual DV Lottery handout will arrive shortly.

The DOS announcement is buried in the DOS website, but, it may be found [here](#).

1) Permanent Resident Visa Bulletin Amended

In what may well be the first time in fifty years, USCIS and the Visa Office of the Department of State have modified the monthly "Visa Bulletin" as a result of the President's Executive Action. The modification, which affects the employment based and family quotas, permits applicants to file I-485 Adjustment of Status applications before their priority dates become current. The "Visa Bulletin" now contains a chart for "filing date" as well as continuing the chart for "final action" dates.

For many years DOS would begin working on applications pending in their system prior to what is now called the "final action" date. DOS works the case when applicants will obtain their green cards outside the U.S. This process permitted efficient distributions, thereby maximizing visa usage. USCIS had long resisted the DOS methodology, and would only permit the filing of the I-485 for obtaining the green card in the U.S. on or after the date that the "Visa Bulletin" listed the priority date as current.

The new system will more efficiently predict visa number availability and usage, thereby minimizing the loss of visa numbers at the end of the fiscal year. It will also permit earlier I-485 filings, thereby permitting earlier EAD and advance parole filings and better CSPA age out protection, among other benefits.

Unfortunately, DOS miscalculated October visa availability and needed to change and reissue the October "Visa Bulletin". This change rolled back many dates and disappointed many applicants. Litigation is already happening.

The latest October "Visa Bulletin" may be found [here](#).

2) SEVP Issues "SEVIS by the Numbers"

SEVIS recently issued its August, 2015 "SEVIS by the Numbers" providing quarterly statistics for students and exchange visitors in the United States.

A few goodies:

As of July there were 1,054,505 F-1 and M-1s, and 244,766 J-1s at 8,887 certified schools, and 1,448 designated programs. New York had 120,161 students, of which 35,658 were STEM. The top 5 New York schools were: NYU 9,501, Columbia

8,980, SUNY Buffalo 5,609, Cornell 5,381, and Stonybrook 4,233. California and Texas were also broken out.

Countries providing the highest number of students in New York were: China (by far), India, South Korea, and Canada. Measurable numbers also came from Japan, Turkey, Taiwan, Brazil, France, and Thailand.

Top majors in New York were: Business Management, Marketing and Related Support Services; Basic Skills and Development/ Remedial Education; Video and Performing Arts; Engineering and Computer and Information Sciences and Support Services.

The report may be found [here](#).

3) Working in TPS-and in F-1 Status

The Customer Service and Public Engagement Directorate of USCIS recently published an FAQ entitled: “Statelessness and the Ability to Work for Joint F-1/TPS”.

The first FAQ responds to a commonly asked issue:

1) Can someone with a non-immigrant status (e.g. F-1, B-2, etc.) apply for TPS? If so, will having or using a TPS-related EAD affect his or her other status?

Yes, a person with F-1, B-2, or any other nonimmigrant status may apply for and receive TPS. The individual can continue to hold both statuses, as long as he or she remains eligible for both. For example, if an F-1 (student) applies for and obtains TPS, but he or she continues to abide by all of the F-1 eligibility requirements, he/she can continue to maintain F-1 status and simultaneously hold TPS. Any individual who applies for and is granted TPS must continue to comply with the separate eligibility requirements of all other statuses (e.g., F-1, H-1B) that he or she seeks to maintain. It is up to the individual to know and understand the requirements of all statuses he/she holds or is seeking to obtain and/or maintain. Receiving TPS or a TPS-related EAD does not alter any rules limiting employment for certain nonimmigrants, such as F-1 students or B-2 visitors. Before someone holding both nonimmigrant status and TPS chooses to work using a TPS-related EAD, he or she should carefully consider whether that employment could violate the terms of the nonimmigrant status, potentially resulting in violation of the nonimmigrant status. F-1 students who are considering working on a TPS related EAD may want to talk with their Designated School Official (DSO) and/or an immigration attorney to discuss how employment could affect their F-1 status. We note that students who are experiencing severe economic hardship as a result of unforeseen circumstances may follow the usual process to request off-campus employment authorization due to the hardship by filing an I-765, Application for

Employment Authorization. Recognizing the effects of the earthquakes in Nepal, USCIS has announced that it will work to expedite the adjudication and approval, where possible, of requests for off-campus employment authorization for F-1 students from Nepal experiencing severe economic hardship.

The entire FAQ can be found on the NAFSA website [here](#).

USCIS appears to be taking a restrictive approach whereby the non-immigrant status trumps the TPS employment benefit. According to this interpretation it would appear that an F-1 student who works using a TPS EAD would be violating their student status, unless given prior F-1 work authorization. It must be noted that the F-1 work authorization will be more narrow in scope than the TPS EAD.

We hope that these statements clarify any questions.

4) Yemen Designated for TPS

On September 3, 2015 the “Federal Register” carried a “Notice” by USCIS designating Yemen for Temporary Protected Status for eighteen months, effective September 3, 2015 to March 3, 2017. The “Notice” estimates that 500 to 2,000 nationals of Yemen are eligible for TPS. The “Federal Register” Notice may be found [here](#). The USCIS “News Release” may be found [here](#).

5) AAO Appeal Statistics-What are the Odds?

The Administrative Appeals Office of USCIS recently released statistics on how it resolved cases on appeal by dismissal, sustaining or remand in 2014. For H-1B cases the AAO received 537 appeals of which it dismissed 509, sustained 16, and remanded 12. Therefore, the appeal has a .0521415% chance of being sustained or remanded, and this percentage is an improvement over prior years! For a filing fee of \$630.00 one might get better odds in an Atlantic City slot machine. There are many other types of applications which can be appealed, but the H-1B category seems to be the AAO’s biggest cash cow.

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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