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**MEMORANDUM**

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To: International Education Program Administrators

- 1) DHS Proposes STEM OPT Changes
- 2) DOS Notes Changes to Come in Consular Consolidated Database
- 3) GAO Releases Report: Nonimmigrant Visas, State Has Reduced Applicant Interview Wait Times, but Sustainability of Gains is Uncertain
- 4) L1A/B and H-1B Border Security Fees Sunset

1) DHS Proposes STEM OPT Changes

The *Federal Register* of October 19, 2015 carried a "Notice of Proposed Rulemaking" entitled: "Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students with STEM Degrees and Cap Gap Relief for All Eligible F-1 Students."

Comments, which are strongly encouraged, must be received on or before November 18, 2015. The *Federal Register* "Notice" may be found [here](#).

Page 63378 of the proposal contains a "Summary of the Major Provisions of the Regulatory Action" which should be carefully reviewed. Having said that, the entire proposal is valuable reading, even for those institutions with little to do no STEM students.

Please note that this is a “Proposed rule”. It is not a “Final rule”. The “Final rule” will only be published in the *Federal Register* after comments have been reviewed by DHS.

The STEM regulations were first published as an “Interim Final Rule” in the *Federal Register* on April 8, 2008. Although over 900 comments were received and public meetings held, no further action was taken. Then, on August 12, 2015, the U.S. District Court for the District of Columbia rocked the USCIS boat in the case of *Washington Alliance of Tech. Workers v. US Dept. of Homeland Security*, which we reported on in our September 1, 2015 Memorandum. The court vacated the “Interim Final Rule” for violating the notice and comment provisions of the Administrative Procedure Act, as no advance notice and opportunity for public comment has been provided prior to the rule becoming effective. The court vacated the rule, but held its order until February 12, 2016 to provide DHS time to correct its failure, and to avoid “seriously disruptive” complications. Thus, the 30 day notice and comment period. Of interest is USCIS’ discussion of the 2008 comments, as well as its justification for the STEM employment rules as supportive of US international education efforts, even citing NAFSA reports.

Some of the proposed requirements are controversial, especially the section on safeguards for US employers. Fortunately, DHS is encouraging comment. Whether it will be swayed by comments is an open question. We urge a careful reading of the proposal, and the submission of comments-positive, negative, or both.

## 2) DOS Notes Changes to Come in Consular Consolidated Database

For many years the Department of State has used its Consular Consolidated Database (CCD) to control and issue visas. As we have all learned over the last two summers, the CCD is deficient and has failed to operate during the critical F-1 season. As part of an AILA/DOS Liaison meeting on October 8, 2015 regarding various items in the Visa Modernization Project resulting from the President’s immigration initiative, the following Q&A was presented:

[13ci] The Visa Modernization proposal indicates that changes will be made to the Consular Consolidated Database (CCD). In view of CCD failures during the past two summers which significantly disrupted visa processing and resulted in backlogs, please comment on:

Is State considering replacing the CCD with a more robust system?

Yes. CA [Consular Affairs] is in the process of modernizing the CCD to provide a more stable environment to meet our strategic goals. The first stage is nearly complete and will migrate the CCD from its venerable server farm to a modernized Oracle Exadata platform with the same processing power used by major Wall Street trading firms. We expect to complete this effort by the end of CY [calendar year] 2015. The next phase of CCD modernization will focus on an internal re-designing of the database to enhance efficiency and reliability.

3) GAO Releases Report: Nonimmigrant Visas, State Has Reduced Applicant Interview Wait Times, but Sustainability of Gains is Uncertain

This GAO Report dated September 2015 particularly discusses personnel increases in the U.S. Consulates in Brazil and China, but also discussed serious issues regarding the need for technology improvements in light of worldwide visa demand. As noted in “What GAO Found.”

While State is currently enhancing its IT systems, it does not systematically collect information on end user (i.e., consular officer) satisfaction to help plan and guide its improvements, as leading practices would recommend. Without this information, it is unclear if these enhancements will address consular officers’ concerns, such as having to enter the same data multiple times, and enable them to achieve increased NIV processing efficiency in the future.

The CCD is discussed in the report starting on page 16. The Report maybe found [here](#).

4) L1A/B and H-1B Border Security Fees Sunset

In 2010 Congress passed legislation setting additional filing fees for certain L-1A and L-1B petitions at \$2,250.00, and for certain H-1B petitions at \$2,000.00. These “Border Security Fees” were set for petitioners with large numbers of L and H employees. With no discussion or public rationale, Congress permitted these fees to sunset as of October 1, 2015.

*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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