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MEMORANDUM

To: International Education Program Administrators

- 1) What's in the Future? Or at Least for the Next Two Years
- 2) H-1B Cap Filled
- 3) Travel to the Northern Border
- 4) J-1 Issues
- 5) Haiti TPS
- 6) A Trip to Cuba?
- 7) Tri-Valley University – U.S. News Ranking?

1) What's in the Future? – Or at Least for the Next Two Years.

During the President's State of the Union speech on January 25, 2011, he specifically mentioned the DREAM Act as well as alluding to a need for more H-1B places. Stating that educating international students in the United States, and then sending them away to countries where they would compete against us makes no sense, will hopefully make sense even to tea party congressman and senators. Will we get a DREAM Act this year? Senate Majority Leader Harry Reid is confident that we will even get a mass amnesty. Being a bit less optimistic, it could happen that the DREAM Act will be passed, especially if there are sufficient tradeoffs in the form of border security, or other ways to satisfy the anti-immigrant nativists.

Meanwhile, the electronic "virtual fence" was canceled after a \$1 billion was spent on it – with nary a word from the conservatives who seek to save money. The Department of Homeland Security in cancelling the fence stated that it was "ineffective and too costly." Janet Napolitano, the Secretary of Homeland Security, noted that less expensive technology, which is already a part of border patrol surveillance equipment, could be tailored to specific terrain. The "New York Times" story may be viewed by clicking [here](#). If the virtual fence does not work, try the real one which took two young women only about seventeen seconds to scale. Their achievement may be viewed by clicking [here](#).

2) H-1B Cap Filled

On January 27, 2011 USCIS announced that enough H-1B applications had been filed as of January 26th to fill the H-1B cap of 64,550. Applications received on January 26, 2011 will be selected by lottery.

Further, USCIS had already receipted the 20,000 H-1B advanced degree petitions.

This fiscal year saw the latest filing date on record for H-1B's.

3) Travel to the Northern Border

There have been a significant number of reports of USCBP activities well south of the Canadian border. Some of these actions have involved the arrest of students who were on their way to Canada to cross the border and return with "cross order reinstatement," with their original visas and new I-20s. It is suggested that any F, J, or M student who is seeking "cross border reinstatement" have a letter with them from their university written to the attention

of CBP stating that the purpose of the trip is to reenter the U.S. in appropriate F-1 status, and that any arrest prior to doing so would have the exact opposite effect of keeping the F-1 student in legal status.

In addition to the foregoing, AILA/CBP liaison meeting minutes of December 9, 2010 state:

If CBP encounters an alien who has a pending and timely filed application to adjust status, extension of status, or change of status either at an internal border checkpoint or while he or she is traveling domestically by air:

- a. What documents will CBP accept as satisfactory proof that the traveler has a valid application pending and is in a period of authorized stay?
- b. Under what circumstances will CBP detain the individual, issue a Notice to Appear, or refer the individual to ICE?

Reply: CBP accepts the I-797 receipt notice as proof that the individual is an Applicant for Adjustment of Status or has a pending extension of stay or change of status, but CBP may verify information regarding pending applications against DHS databases (for example, to confirm that a pending extension was timely filed). A person presenting a current, valid Advance Parole should be admitted without regard to the expiration date of an I-94 that was previously issued based on presentation of an Advance Parole.

4) J-1 Issues

- ◆ The minutes of an AILA-Visa Office Liaison meeting on October 28, 2010 discussed several J-1 issues and noted, among other things, that:

Requesting an advisory opinion, all IAP-66 and/or DS2010 forms must be submitted as the entire history is reviewed in order to make a decision, and

DOS will only adjudicate one favorable waiver application per applicant as the waiver covers the 212(e) requirement for all entries.

- ◆ The "Federal Register" of January 12, 2011 contained a "Notice of Proposed Information Collection" regarding the Certificate of Eligibility for exchange visitor (J-1) status, form DS-2019. The Notice indicated that there were 1,460

estimated respondents representing 350,000 responses at 45 minute per response with a total estimated burden of 262,500 hours.

5) Haiti TPS

With the sunset of the Haitian TPS Initial Filing Program, USCIS announced that it had received more than 53,000 applications with at least 46,000 granted to date, and an expected total number of approvals to exceed 49,000. The original expected figure for applications was 100,000 to 200,000, which was subsequently revised down to 70,000. It became apparent that many potential applicants remain fearful of deportation and prefer to remain hidden.

6) A Trip to Cuba?

On January 14, 2011 the Obama administration announced an easing of restrictions on academic travel to Cuba. The announcement eases restrictions on cultural, educational, and religious travel to Cuba and overturns the 2004 regulations by George W. Bush. Although the policy does not permit ordinary American tourism, it will permit credit bearing study abroad programs upon receipt of a license, as well as people-to-people exchanges, and faculty research. Prior history regarding Cuban educational travel was that the experience would be an expensive one with both the Cuban government and U.S. universities seeking to profit. The actual regulation appeared in the "Federal Register" on January 28, 2011.

7) Tri-Valley University-U.S. News Ranking?

The closing by ICE of Tri-Valley University, Inc. in California has resulted in repercussions all over the country with former "students" showing up at institutions nationwide. At this time, SEVP has no instructions as to what each campus should do with these students, but will not transfer them in SEVIS.

According to allegations in a real property forfeiture lawsuit by the Criminal Division of the U.S. Attorney's Office in San Francisco, the school was nothing more than a scheme to defraud individuals. After, somehow, having an I-17 approved, the school managed to enroll 1,555 students with an estimated revenue of \$4,198,500. Unfortunately, the school consisted only of a building, several condominium apartments and a minimal staff with no faculty. Apparently, it was marketed as a fully online program.

Not to miss a trick, the school was also a pyramid scheme whereby a friend who registered generated a 20 percent kickback of the tuition of \$2,700 to the referrer who ultimately received five percent of subsequent referrals. The allegations also note that 95 percent of the students in active status were citizens of India. The school allegedly purchased several condominium apartments for use as local addresses for "students" who were actually living all over the country. Apparently, the only trick the school missed was selling t-shirts.

Below is an excerpt from the Complaint for Forfeiture which was filed by the U.S. Attorney's Office in the District Court for the Northern District of California in San Francisco. Although some of it is pretty dull legal stuff, it sets forth the allegations of exactly how the alleged scam was perpetrated. Interesting reading:

[Sophie] SU, and others, submitted an 1-17 petition to the Department of Homeland Security ("DHS") and later SU sent a supplement to that petition by United States mail which contained false statements and misrepresentations. For example, one false statement and misrepresentation involved whether TVU credits would be accepted by an accredited college or university. As stated above, DHS requires a school which is unaccredited, such as TVU, to provide evidence from three accredited colleges or universities that the credits which a student obtains at TVU will be accepted by that college or university for credit. In a supplement to TVU's 1-17 petition, SU sent by the United States mail to DHS three articulation agreements from accredited colleges which stated that each had accepted and would accept for credit the credits which students earned at TVU. When ICE began to investigate, however, ICE found that at least two of those agreements were false; authorized officials in two of those accredited colleges had not accepted TVU credits in the past and did not agree to accept TVU's credits in the future. Without such evidence from three accredited colleges or universities, DHS would not have approved TVU's 1-17 application, and TVU would not have been authorized to issue the visa related documents to any enrolled foreign national. Relying on the evidence which TVU submitted and unaware that at least two of the articulation agreements were false, DHS approved the TVU application in February 2009. Thus, the paid tuition of the foreign nationals to whom TVU provided the visa related documents enabling them to illegally obtain student visas constitutes proceeds of the elaborate scheme to defraud.

After DHS approved TVU's 1-17 application which contained false statements and misrepresentations, SU and TVU began to issue student visa related documents to foreign nationals who paid tuition in order to illegally acquire student immigration status that authorized them to remain in the United States. ICE's investigation uncovered that TVU is a sham university which SU, and others, are using to provide visa related documents that enable foreign nationals to illegally obtain student visas in return for tuition fees, the

payment of which in the aggregate has grown rapidly at an exponential rate since TVU's 1-17 petition was approved in February 2009. Since February 2009, SU through TVU has been paid millions of dollars by foreign nationals to illegally obtain student visas that authorize them to remain in the United States.

In May, 2010, ICE began an investigation of SU and TVU. During the course of that investigation, ICE reviewed TVU's records in SEVIS and observed that TVU received approval of its 1-17 petition on February 17, 2009, and that the DHS site visit as part of the approval process confirmed capacity for approximately 30 students. The TVU SEVIS records showed that TVU had 11 active F-I students by May 2009; 75 by September 2009; 447 by January 2010; and 939 by May 2010. More than 95% of the students in active status were citizens of India. And more than half of the students were reported to be residing in a single apartment located at 555 E. El Camino Real, Apartment 415, Sunnyvale, California. In June, ICE interviewed the property manager for 555 E. El Camino Real. The property manager provided the lease agreements for Apartment 415, which identified four TVU F-I students living there between June 2007 and August 2009, and none since 2009. During the course of the investigation, ICE obtained information that the reason TVU reports in SEVIS that most of its foreign students live at 555 El Camino Real, Apartment 415, is in order to conceal that they do not live in California.

Also in the course of the investigation, ICE interviewed a witness who had worked at TVU's office and stated that approximately 50% of the tuition fees were paid by credit card, 40% by PayPal, and 10% by cash or check. TVU had Visa and Mastercard processing machines in the TVU office, but SU told the witness that she processed all American Express payments from home.

On or about June 3, 2010, ICE equipped a witness with an audio recording device and provided him with written identifying information for two foreign nationals (Student 1 and Student 2), whose student status had been terminated in SEVIS, and watched the witness enter TVU's office, which SU had been observed entering previously. The witness told SU that he had two friends who had been terminated in SEVIS and needed TVU admission and new 1-20s reflecting their admission. SU agreed and had him obtain the new 1-20s from a foreign student-employee. This witness stated that he saw SU sign the initial 1-20s, both of which bear signatures in the name of another DSO.

In or shortly before July 2010, the same witness informed ICE that TVU had moved its offices to 405 Boulder Court, Suites 700 and 800, in Pleasanton, California. At the request of ICE, the witness on or about July 27, 2010 went into the new TVU office and paid SU \$2000 to activate the status of the two students for whom SU had signed the initial 1-20s. This witness observed SU sign "active" 1-20s, reflecting the students' active-student status, using another DSO's name. A SEVIS search confirms that TVU activated the status

of both students on July 27, transmitting information that both were enrolled in Ph.D. programs. Despite the fact that neither student actually attending classes at TVU, a SEVIS search on November 22, 2010, shows that TVU still has not terminated their active status.

On or about September 20, 2010, an ICE Special Agent placed a recorded call to the TVU office while another ICE Special Agent conducted surveillance outside the office. Speaking to a woman who identified herself as Dr. SU, the ICE Special Agent told SU that he was an officer at San Francisco International Airport and that he had stopped Student 1 attempting to reenter the United States. SU confirmed that her records reflect Student 1 as a current, full-time student at TVU. The agent asked SU to email him scanned copies of Student 1's 1-20, transcripts, and a letter confirming his active full-time status. After the call concluded, the ICE Special Agent surveiling the TVU office saw SU quickly exit the TVU office, get an item from a car - a Mercedes Benz with California license plate 6KHC985, registered to Susan SU - and go back into the TVU office. A few minutes later, the ICE Special Agent who told SU he was calling from SFO received an email from ssu@trivalleyuniversity.org with three attachments: an active Form 1-20 for Student 1 bearing a signature of "Sophie Su"; TVU transcripts for Student 1; and a letter signed by "Sophie Su" representing that Student 1 is a "full time" graduate student "in good standing."

On or about September 24, 2010, the same ICE Special Agent who telephoned TVU on or about September 20 telephoned TVU again, and spoke to a woman identifying herself as SU again. This time the ICE Special Agent said he was an immigration officer who had stopped Student 2 returning from Yemen. Again, SU advised that her records confirm Student 2 as a current TVU student and, from the same email account, emailed the Special Agent an active 1-20, transcript, and letter confirming that Student 2 is a full time student in good standing. The 1-20 and letter again bore the name "Sophie Su."

...

The revenue generated by TVU appears to come almost entirely from payments made by foreign nationals seeking F-1 student status. TVU appears to have created little to no demand among non-foreign nationals.

...

During the period from February 2009 through August 2010, TVU had more than \$2,000,000 in deposits into Wells Fargo Bank account ending in 0454 and its PayPal account ending in 1921. Significantly, a check of the records of the California Employment and Development Department showed that no 2009 wages or earnings had been reported to the State of California for Susan SU.

...

ICE's investigation has revealed that rapid and exponential growth in enrollment and revenue ... largely due to TVU's referral/profit-sharing system, which resembles a pyramid scheme. Once enrolled at TVU, each foreign national may collect up to 20 percent of the tuition of any new student that he or she refers. Foreign nationals may also collect up to 5 percent of the tuition of any new student that his or her referred student refers. A large percentage of foreign nationals at TVU participate in this referral/profit-sharing system.

Unfortunately, TVU never got a US News ranking. Anybody want to buy a t-shirt?

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.

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