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MEMORANDUM

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To: International Education Program Administrators

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1) NSC Student/Schools Teleconference on June 11

On June 11, 2015 at 10:00 am (Central) the Nebraska Service Center will hold a teleconference on “students, schools, and other issues.” NSC will address non-case specific issues. No RSVP is necessary and call-in information will be provided during the week of June 8th.

2) SEVP Issues

a) Release 6.21 on Naming Standards, Effective June 29.

SEVIS Release 6.21 covers naming standards for use on the new upcoming versions of Forms I-20 and DS-2019. Webinars by SEVIS and the State Department were held in May. SEVP reports that this is the biggest SEVIS release in history. It is so large that SEVIS will be shut down from June 26-28. At this point, no information has been provided as to how CBP and other agencies will deal with the SEVIS outage. A link to the SEVIS Release 6.21 Planning Guide may be found [here](#).

b) Broadcast Message 1505-03, I-901 Fee Fraud Alert

On May 6 SEVIS released Broadcast Message (BM) 1505-03, I-901 Fee Fraud Alert. The Fraud Alert regards a scam in the Chicago area regarding the I-901 fee whereby scammers are using the “Location Services” app on students’ cell devices to locate students and threaten them with “continued pursuit if they did not receive \$4,000.00.” Chicago PD is on the case. The BM may be found [here](#).

3) NYC CBP Releases Contact Telephone Numbers

The minutes of a NYC AILA/CBP Liaison Meeting held on April 14 mentioned that the JFK Deferred Inspection Unit’s (at Jet Blue Terminal 5) telephone number is 718-553-3683/4.

Should an individual be detained, the Duty Supervisor should be called at JFK 718-553-1648, and at Newark 973-565-8000.

4) H-1B Developments

a) 2016 H-1B “Cap-Subject” Petition Data Entry Completed

On May 4, USCIS announced that it had completed data entry on all 2016 “cap-subject petitions”. The announcement stated:

USCIS announced May 4, 2015, that it has completed data entry of all fiscal year 2016 H-1B cap-subject petitions selected in our computer-generated random process. USCIS will now begin returning all H-1B cap-subject petitions that were not selected. Due to the high volume of filings, the time frame for returning these petitions is uncertain. USCIS asks petitioners to not inquire about the status of submitted cap-subject petitions until they receive a receipt notice or an unselected petition is returned. USCIS will issue an announcement once all the petitions have been returned.

b) H-1B Premium Processing Suspended for Extensions

On May 19, and again on May 22, USCIS announced that it was suspending premium processing for H-1B extension petitions to allow implementation of the new H-4 Spousal Employment regulation.

Starting May 26, 2015, U.S. Citizenship and Immigration Services (USCIS) will temporarily suspend premium processing for all H-1B Extension of Stay petitions until July 27, 2015. During this time frame, petitioners will not be able to file Form I-907, Request for Premium Processing Service, for a Form I-129, Petition for a Nonimmigrant Worker, requesting an extension of the stay for an H-1B nonimmigrant. USCIS will continue to premium process H-1B extension of stay petitions filed with Form I-907 premium requests prior to May 26, 2015.

. . .

This temporary suspension will allow USCIS to implement the Employment Authorization for Certain H-4 Spouses final rule in a timely manner and adjudicate applications for employment authorization filed by H-4 nonimmigrants under the new regulations.

The updated announcement may be found [here](#).

c) USCIS Issues H-4 Employment Q&A and Webpage

On May 20, USCIS opened a webpage and released a Q&A regarding the H-4 Spousal Employment regulation which became effective on May 26. The webpage and FAQ may be found [here](#).

One FAQ specifically concerns F-1 students:

3. I am an F-1 nonimmigrant who possesses Optional Practical Training (OPT) employment authorization. Would there be continuous employment if I file a petition requesting H-4 nonimmigrant status concurrently with an EAD?

As an F-1 nonimmigrant who has employment authorization under OPT, you are allowed to work only as long as the OPT authorization remains valid. Filing an application to change status from F-1 to H-4 nonimmigrant status and/or an application for employment authorization based on H-4 status does not extend your employment authorization under OPT or any previously granted employment authorization. If you file a Form I-539 requesting to change your nonimmigrant status to H-4 and you include a Form I-765, we will adjudicate your Form I-765 only after we adjudicate your Form I-539 and grant you H-4 status.

Of note is the adjudications timeframe. An I-539 must be filed for a change of status. The I-539 must be adjudicated before the I-765 employment application is decided. Currently, according to the USCIS Processing Time Information for the Vermont Service Center, it is taking eight months to process an I-539 change of status application. An I-765 would take an additional three months. The problem is apparent.

5) Form Revisions

a) I-539

USCIS has advised that the revised I-539 (used for Changes of Status, and for Motions to Reinstate) became active on May 8. Forms dated 12/19/12 or earlier may continue to be used until July 6.

b) I-907

The Premium Processing form I-907 has been revised with a 1/29/15 edition date. Starting June 1, USCIS will not accept any form with an earlier edition date.

6) 5th Circuit Court of Appeals Denies Government Request to Lift DACA/DAPA Injunction

On May 26, 2015 the 5th Circuit Court of Appeals denied the federal government's request to lift the District Court's injunction in the DACA/DAPA litigation which originated in Brownsville, Texas. The appeals court denied the stay "Because the government is unlikely to succeed on the merits of its appeal of the injunction..." The denial means that the President's expanded DACA/DAPA program remains on hold.

The administration has announced that it will not appeal the appeals court denial to the Supreme Court, but may seek further review by a panel of the full court.

This process could take considerable additional time. As with all litigation, there can be many strategies which parties may follow.

7) Relief Measures for Citizens of:

a) Nepal

As a result of the tragic effects of the 7.8 earthquake and subsequent aftershocks which recently struck Nepal, USCIS has noted certain measures available to eligible Nepalese nationals. The relief measures are similar to those offered to countries recently affected by natural disasters such as the Philippines. The announcement may be found [here](#).

b) Yemen

USCIS announced on May 7th that it was monitoring conditions in Yemen and providing relief measures.

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

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.

Note (After all, we are lawyers!): 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.