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**MEMORANDUM**

To: International Education Program Administrators

- 1) H-1B Events
  - ◆ H-1B Cap Count
  - ◆ USCIS Issues Q&A on Cap - Gap Issues
- 2) NSEERS Registrations Eliminated
- 3) State Department Publishes Final Rule on Visa Revocation
- 4) Taking a "Closed Loop" Voyage?
- 5) Updating SAVE
- 6) NAFSA/CBP Liason Call

1) H-1B Events

◆ H-1B Cap Count

Its H-1B cap count time again.

On April 1<sup>st</sup> USCIS began accepting H-1B petitions.

On April 27, 2011 USCIS updated the H-1B cap count to note that as of April 22, 2011, approximately 8,000 H-1B cap-subject petitions were receipted against the 65,000 total cap.

Further, USCIS has receipted nearly 5,900 H-1B petitions against the 20,000 cap for beneficiaries with advanced degrees.

These numbers appear to be consistent with the last two years when numbers were available into December and January.

◆ USCIS Issues Q&A on Cap - Gap Issues

In early March USCIS issued a Q&A entitled "Extension of Post-Completion Optional Practical Training (OPT) and F-1 Status for Eligible Students under the H-1B Cap-Gap Regulations Questions and Answers." This Q&A seeks to explain several sticky issues that have come up over the last couple of years including when the cap - gap extension applies, implications of denied cases, and filing during the grace period. The USCIS release should be carefully reviewed. It may be found [here](#).

2) NSEERS Registrations Eliminated

On April 28, 2011, the "Federal Register" carried a "Notice" from the Office of the Secretary of DHS which effectively terminated the NSEERS program as of April 28, 2011. In an attempt to eliminate "redundant programs" Homeland Security removed all of the applicable countries from the NSEERS enforcement list, although it did not terminate the program itself. The rationale for the elimination was that:

Over the past six years, the Department of Homeland Security (DHS) has implemented several new automated systems that capture arrival and exit information on nonimmigrant travelers to the United States, and DHS has determined that recapturing this data manually when a nonimmigrant is

seeking admission to the United States is redundant and no longer provides any increase in security. DHS, therefore, has determined that it is no longer necessary to subject nationals from these countries to special registration procedures, and this notice deletes all currently designated countries from NSEERS compliance.

Therefore, fingerprints and photographs and additional information which had been taken at secondary inspection are no longer required from individuals from the affected countries. USCIS lists the additional infrastructure improvements as improved intelligence exchange between the U.S. and other countries, as well as the US - VISIT program which requires fingerprints and photographs from all applicants since January, 2004, and the electronic exchange of passenger manifests prior to the arrival of the plane.

An announcement from the DHS Officer for Civil Rights and Civil Liberties characterizes the NSEERS registration process as redundant, inefficient, and unnecessary and that referrals to NSEERS will no longer be done automatically based on nationality. The letter notes that "...screening is based on many criteria which are carefully designed to reflect current intelligence and respect civil rights requirements."

The specific countries involved are: Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

Unfortunately, it is not made clear just how individuals presently confronted with NSEERS issues will be treated.

3) State Department Publishes "Final Rule" on Visa Revocation

On April 27, 2011 the "Federal Register" published a "Final rule" which provides greater authority to consular officers to revoke visas without notice and in their discretion, either finally or provisionally. The visa is an entry document laminated into a foreign passport by a U.S. consular office abroad. The visa permits the foreign national to enter the U.S. It is then up to USCBP to determine the length of time the foreign citizen is permitted to remain in the U.S. If an individual has entered the United States on a visa which has later been revoked, current procedure is for ICE or USCIS to request the physical revocation of the visa by the Department of State in the appropriate circumstances. DHS officers are not permitted to physically cancel visas based upon a revocation, although such cancellation is frequently done.

Please note that the amended regulation commits the revocation of the visa to the discretion of the consular officer, with no standards or direction provided. Although a new application for a new visa may always be made – for what it is worth. If a visa is revoked, it would then be up to ICE to commence removal proceedings.

4) Taking a “Closed Loop” Voyage?

Just in time for Spring break CBP published a notice entitled “Closed Loop Voyages – Frequently Asked Questions.” A “closed loop” voyage has no relationship to the alcohol consumption on board. Rather, it occurs when a vessel departs from a U.S. port and returns to the same U.S. port upon completion of the voyage. Travelers on the “closed loop” are not subjected to the same documentary requirements as are usually required for entry. These “closed loop” voyages generally follow itineraries which include Caribbean islands which are considered to be “contiguous” territories, or any country sharing a common boundary with the United States. These “contiguous” countries are:

Anguilla, Antigua, Aruba, Bahamas, Barbados, Barbuda, Bermuda, Bonaire, British Virgin Islands, Cayman Islands, Cuba, Curacao, Dominica, the Dominican Republic, Grenada, Guadeloupe, Haiti, Jamaica, Marie-Galantine, Martinique, Miquelon, Montserrat, Saba, Saint Barthelemy, Saint Christopher, Saint Eustatius, Saint Kitts-Nevis, Saint Lucia, Saint Maarten, Saint Martin, Saint Pierre, Saint Vincent and Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and other British, French and Netherlands territory or possessions bordering on the Caribbean Sea.

5) Updating SAVE

There has been anxious discussion regarding the correction of USCIS records in the SAVE program if it does not provide up to date or accurate information for other government agencies from which individuals are seeking benefits, such as social security numbers, and driver’s licenses, among others. According to information provided by the California Service Center to AILA on January 26, 2011 the only way to correct or update Service records is for the benefit issuing agency to submit a form G-845 (Document Verification request) directly to the SAVE program. The form may not be submitted by the actual applicant. It was noted that the fix may take ten to twenty days to complete (which, perhaps, may be optimistic). The contact information is:

SAVE Technical Help Line:  
1-800-741-5023  
Email: [SAVE.HELP@dhs.gov](mailto:SAVE.HELP@dhs.gov)

6) NAFSA/CBP Liason Call

On April 1, 2011 NAFSA published notes from their March 22, 2011 liason call with CBP. The call covered such areas as variances between CBP and DOS records, corrections of SEVP addresses on form I-515A, and interagency consistency regarding names. There was also an NSEERS update which has now been overtaken by the Federal Register Notice of April 28, 2011. The NAFSA liason minutes are found on the NAFSA website.

*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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