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MEMORANDUM

To: International Education Program Administrators

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1) Reminder, New USCIS Fees Take Effect on November 23, 20210

Please don't forget that on November 23, 2010 the new USCIS fee schedule goes into effect. USCIS advises that applications or petitions postmarked or otherwise filed on or after November 23, 2010 must include the new fee, or they will be rejected. The new fee schedule was published in the "Federal Register" on September 24, 2010. A one page consolidated fee schedule was attached to my last Memorandum and can also be viewed by clicking [here](#).

2) H-1B Count

On November 1, 2010 USCIS updated the H-1B cap count to advise that as of October 22, 2010, approximately 45,600 H-1B cap-subject petitions were receipted against the 65,000 total cap.

Further, USCIS has receipted 16,700 H-1B petitions against the 20,000 cap for aliens with advanced degrees. These numbers continue to be significantly below the totals for 2009.

3) New NYC USCIS Office Opens in Holtsville, New York

Although the USCIS office at 26 Federal Plaza continues to function (which may be a matter of definition), the Service has maintained an office in Garden City, Long Island for several years. The Garden City office performs adjudications of naturalization petitions as well as green card applications. Residents of Long Island have been interviewed in the Garden City office. Recently, however, the Garden City office has closed for interviews and a new office has opened in Holtsville, New York. It is expected that an additional new office will open in Long Island City early next year.

The Holtsville office is located in mid Suffolk County and is state of the art. At this time interviews for residents of Queens, Nassau, and Suffolk County are being scheduled in the new office. The problem is that residents of Queens who could easily attend an interview at 26 Federal Plaza must now travel some sixty miles for an interview on a schedule which may begin at 7am. For those without a car or unable to drive, this bureaucratic decision is an extreme hardship and is not customer friendly. Hopefully, the Long Island City will open shortly.

4) Wisdom from the Vermont Service Center September 20, 2010 Stakeholder Conference

The Vermont Service Center held a Stakeholders Conference on September 20, 2010. The AILA minutes of that conference contained several issues of interest. Some of these issues were apparently thought out by George Orwell, others by Lewis Carroll – or perhaps, Franz Kafka.

In regard to inquiries at the National Customer Service Center it was stated:

- Q. Recently supervisors at NCSC indicated that individuals should receive a response from NCSC or the Service Center within 15 days of an inquiry. Additionally, it was mentioned that if a person calls and waits 15 days and there is no response, then a follow-up can be made. The USCIS website still indicates that an individual should wait 30 days before a follow-up should be made. Can you clarify?
- A. The applicant/petitioner/attorney of record should wait for the 30 days to hear something. The new 15 day rule did not change this process. [Huh?]

In regard to student issues it was stated:

Student Issues
SEVIS II

- Q. At the April 6, 2010 Stakeholder's meeting VSC indicated that you had no SEVIS II updates. Do you have any SEVIS II updates at this time?
- A. Since the inception of SEVIS II, the development timeline has been driven by concerns with SEVIS I's operational and security vulnerabilities. SEVP updated SEVIS I to mitigate many of those issues. The aggressive schedule proved to be counter-productive. It constrained the ability to build a new system that replicates the functionality of the current system while providing an enhanced design with more flexibility, robust reporting, a one person – one record approach and a paperless process. Therefore, ICE decided to re-baseline SEVIS II.

This description of SEVIS II's "enhanced design" is very similar to USCIS's description of Transformation's goals, and the two projects will likely be inter-linked. We do not have a new time schedule from SEVP, but at the NAFSA conference in Kansas City, it was suggested that the implementation of SEVIS II would not occur before 2012-2013 at the earliest.

Student Travel

- Q. AILA has received reports that SEVIS is updated when an F-1 student is the beneficiary of an I-129/H-1B petition and that this can cause them to be denied entry when they attempt to travel on their F-1 student visa stamp. Can you provide guidance for students wishing to travel after an H-1B petition has been filed on their behalf?
- A. When F-1 students enter the United States on a student visa, they will usually be admitted for the duration of their student status. That means they may stay as long as they are a full-time student, even if the F-1 visa in their passport expires while they are in the United States. In order to travel outside the United States and return, however, students need to be in possession of a valid student visa. In addition to a valid student visa, students also need to submit a SEVIS-generated Form I-20 which is provided to them by their school. The student and DSO must have signed the Form I-20 within the last 12 months.

For students participating in post-completion OPT the regulations at 8 CFR214.2(f)(13)(ii) state that a student who has an unexpired EAD issued for post-completion OPT and who is otherwise admissible may return to the United States to resume employment after a temporary absence. The EAD must be used in combination with an I-20 ID endorsed for reentry by the DSO within the last six months.

The EAD of an F-1 student covered under a cap-gap extension, however, is considered expired. Consequently, if a student granted a cap-gap

extension elects to travel outside the United States during the cap-gap extension period, he or she will not be able to return in F-1 status. The student will need to apply for an H-1B visa at a consular post abroad prior to returning. As the H-1B petition is presumably for an October 1 or later start date, the student should be prepared to adjust his or her travel plans accordingly.

If it appears that the student is no longer working for the OPT employer, and wishes to enter to travel or vacation until the H1B job begins, the student will likely be denied entry, as she or he is no longer in a valid student status.

If the student is in a valid student status, and has the proper documents, a pending or approved I-129 H-1B petition should not affect his or her ability to travel. Because of occasional problems in the connection between USCIS's Claims system and SEVIS, the DSO should check that the student's status is still active in SEVIS. If it has been terminated incorrectly, the DSO should contact the SEVIS helpdesk for a data fix, as this could cause the student problems upon returning to the US.

Please note that particular questions about student travel should be asked of ICE or DOS, as they have the authority in this area.

I hope that the above information is helpful.

5) USCIS Statement on "Social Networking Sites and their Importance to FDNS"

The Yakima Washington District Office of USCIS appears to be a source of interesting Service perspectives on enforcement. A recent bit of wisdom from that office is titled "Social Networking Sites and their Importance to FDNS." After recognizing the popularity of social networking sites on the internet, the piece states:

Narcissistic tendencies in many people fuels a need to have a large group of "friends" link to their pages and many of these people accept cyber-friends that they don't even know. This provides an excellent vantage point for FDNS to

observe the daily life of beneficiaries and petitioners who are suspected of fraudulent activities. Generally, people on these sites speak honestly in their network because all of their friends and family are interacting with them via IM's (Instant Messages), Blogs, (Weblog journals), etc. This social networking gives FDNS an opportunity to reveal fraud by browsing these sites to see if petitioners and beneficiaries are in a valid relationship or are attempting to deceive CIS about their relationship. Once a user posts online, they create a public record and timeline of their activities. In essence, using MySpace and other like sites is akin to doing an unannounced cyber "site-visit" on petitioners and beneficiaries.

In other words, a bona fide marriage investigation.

A list of popular sites and their statistics are included in the Yakima piece – They are out there.

6) DOS Proposes Rule on J-1 Fees for De/redesignation and for Individual Applications

The "Federal Register" of October 1, 2010 carried a "Proposed rule" which would increase J-1 sponsor designation or redesignation fees from \$1,748.00 to \$2,700.00, an increase of \$952.00. However, individual applications for extension, change of category, reinstatement, and ECFMG sponsorship authorization will decrease by \$13.00 to \$246.00 from \$233.00. NAFSA has archived this proposed regulation.

7) DOS Information Collection on J-1 Alumni Web Site Registration

Form DS-7006 is for exchange program alumni website registration. The form is used for exchange program alumni and current participants, as well as for USCIS hosts or program agency employees. The estimated number of respondents on the form is 15,000. The form is required to obtain or retain a benefit. The 30 day Notice of proposed information collection may be found in the October 28, 2010 "Federal Register" at page 66413.

8) USCIS Redesigns Naturalization Certificate

On October 27, 2010 USCIS announced that it would issue a redesigned naturalization certificate for enhanced security. More than 600,000 certificates are issued each year. The new certificates will have a digitized photo and signature embedded into the document. The background will also have a color-shifting ink pattern which is difficult to reproduce. It was also noted that USCIS “will fully...transition to an automated production process for the new certificates by the end of the calendar year.” It is interesting that new green cards have already been issued, but evidence of US citizenship has taken considerably longer to issue, and seems to have fewer security features.

9) El Salvador, Honduras and Nicaragua TPS EADs Automatically Extended; Somalia TPS Extended

For those citizens of El Salvador, Honduras, or Nicaragua who are reregistered for TPS, USCIS has noted that new EADs will not be issued until early November, 2010. TPS beneficiaries will be permitted to provide their employers with copies of the most recent “Federal Register” notice announcing the six month TPS extension and the “auto-extension of EADs. The “Federal Register” links are set forth in the USCIS notice of October 7, 2010. Hopefully, the TPS recipients will have a copy of that notice.

Please also note that TPS for Somalia has been extended for another 18 months through September 17, 2012. The notice appeared in the “Federal Register” of November 2, 2010.

10) USCIS Issues “Fact Sheet” on “Legal Rights Available to Immigrant Victims of Domestic Violence... and Facts About Immigrating on a Marriage-Based Visa Fact Sheet”

USCIS recently issued a “Fact Sheet” defining “domestic violence” and setting forth the victim’s rights and remedies under immigration law. It is actually quite enlightened and provides positive input into this serious issue. The definition reads:

Domestic violence is a pattern of behavior when one intimate partner or spouse threatens or abuses the other partner. Domestic violence may include physical harm, forced sexual relations, psychological and emotional abuse, tactics of isolation (such as controlling who you talk to or where you go) or intimidation, economic abuse (such as withholding

support) and/or immigration related abuse or threats (such as refusing to file applications to give you legal immigration status, or threatening to call immigration authorities to get you removed from the United States if you report abuse). Domestic violence often increases victims' dependence on abusers, making it difficult for victims to leave. While most recorded incidents of domestic violence involve men abusing women or children, men can also be victims of domestic violence.

Domestic violence may include sexual assault, child abuse, and other violent crimes. Sexual assault is any type of sexual activity that you do not agree to, even with your spouse, and can be committed by anyone. It includes unwanted touching of your intimate parts as well as rape or attempted rape. Child abuse includes: physical abuse (any injury that does not happen by accident, including excessive punishment), physical neglect (failure to provide food, shelter, medical care or supervision), sexual abuse, and emotional abuse (threats, withholding love, support or guidance).

Under all circumstances, domestic violence, sexual assault, and child abuse are illegal in the United States. All people in the United States (regardless of race, color, religion, sex, age, ethnicity, national origin, or immigration status) are guaranteed protection from abuse under the law. Any victim of domestic violence – regardless of immigration or citizenship status – can seek help. An immigrant victim of domestic violence may also be eligible for immigration related protections.

If you are experiencing domestic violence in your home, you are not alone. This pamphlet is intended to help you understand U.S. laws and know how to get help if you need it.

11) SEVP Issues Policy Guidance on DSO Reporting Duties, and on Maintaining F and M Date Integrity

As reported in the NAFSA.news of November 2, 2010, on October 28, 2010, SEVP issued Policy Guidances 10004-07 and 1004-10. The former focuses on essential recordkeeping and reporting requirements for DSOs, and the latter

advises DSOs on protocols for entering names and other data into SEVIS, respectively. SEVP will accept public comments until December 26, 2010.

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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