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MEMORANDUM

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To: International Education Program Administrators

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1) Post - DOMA Developments

As a result of the United States Supreme Court striking down Section 3 of the Defense of Marriage Act (DOMA) on June 26, directives have been issued by many government agencies. On August 2, the Secretary of State, John Kerry announced that “...when same-sex spouses apply for a visa, the Department of State will consider that application in the same manner that it will consider the application of opposite-sex spouses.” He went on to emphasize that visa applications will be treated equally in all 222 U.S. visa processing centers worldwide. The State Department also issued FAQs on August 2. The FAQs specifically mention that same-sex spouses and children of F-1 and M-1 students will be able to obtain F-2 and M-2 visas based upon the F-1’s I-20. The DOS FAQ may be found [here](#).

It was also noted that same-sex marriage will take effect in England and Wales in 2014.

USCIS issued FAQs on August 7th with several new questions added. The USCIS FAQ may be found [here](#).

Not to be outdone, SEVP issued guidance on August 5. The guidance notes:

The Department of State, Bureau of Consular Affairs has advised consulates that their officials may issue derivative visas based on same-sex marriage if the marriage is “recognized in the place of celebration.” That is, if the country where the couple married recognizes same-sex marriage as legal, then the U.S. government will recognize the union as legal for visa issuance, irrespective of where the couple plans to reside. The Department of State will be updating the reciprocity tables pursuant to 9 FAM 41.105 to identify what types of marriages are available for same-sex couples.

A designated school official (DSO) should continue to verify marriages consistent with current practices and should now do so for a same-sex marriage if it is “recognized in the place of celebration.” Once the marriage is verified, a DSO then may issue a Form I-20, “Certificate of Eligibility for Nonimmigrant Status,” to a same-sex spouse of an F-1 or M-1 nonimmigrant who is seeking admission into the United States as an F-2 or M-2 dependent.

Apparently, CBP has not issued any directives, but assumedly, will honor visas issued by the Department of State.

2) ICE Policy on Deporting U.S. Children

For many years U.S. citizen children were forced into exile if they were born to a deported alien. Courts upheld this forced exile. The choice was to remain with the parent – or be put into a foster home, or with relatives.

On August 23rd under Federal Enterprise Architecture number 306-112-002b an ICE Directive has established...

policy and procedures to address the placement, monitoring, accommodation, and removal of certain alien parents. The Directive is particularly concerned with the placement, monitoring, accommodation, and removal of alien parents or legal guardians who are: 1) primary caretakers of minor children without regard to the dependent's citizenship; 2) parent and legal guardians who have a direct interest in family court proceeding involving a minor or child welfare proceedings in the United States; and 3) parents or legal guardians whose minor children are U.S. citizens (USCs) or lawful permanent residents (LPRs). This Directive is intended to complement the immigration enforcement priorities and prosecutorial discretion memoranda, as well as other related detention standards and policies that govern the intake, detention, and removal of alien parents. The security and safety of any ICE employee, detainee, ICE detention staff or member of the public will be paramount in the exercise of the procedures and requirements of this Directive.

ICE has created a Parental Rights coordinator to review the implementation of the program and, hopefully, it's positive integration into the President's program for prosecutorial discretion. The Directive may be found [here](#).

3) SEVP Ends Snail Mail of I-901 Receipts

On July 29, 2013 SEVP issued Broadcast Message 1307-04, which advised that it would no longer mail form I-797C (Notice of Action) receipt for the I-901 SEVIS payment. It advised that payment confirmation can be printed from www.fmjfee.com and that the printed confirmation will serve as proof of payment. Questions can be directed to the

SEVP Response Center at (703)-603-3400 or the Case Resolution Unit at fmifee.SEVIS@ice.dhs.gov.

4) SEVP Issues “General Summary Quarterly Review”

On August 20, 2013 SEVP distributed its “Student and Exchange Visitor Information System General Summary Quarterly Review” for the quarter ending June 30, 2013, with an issuance date of July 13th. The Review sets forth lots of handy dandy facts and statistics.

SEVP continues to see the number of requests for data increase as SEVP’s abilities and SEVIS’ capabilities expand. The following recipients of information are: DHS-ICE (SEVP), Department of State, Exchange Visitor Programs, Congress, Private Organizations, DHS-ICE (CTCEU), schools, Embassies and Consulates, Law Enforcement and Intelligence Agencies, and other government agencies and entities. It can be reasonably expected that this list will continue to expand.

The Management Summary notes that SEVIS contained records for 1,253,705 active non immigrant students, exchange visitors and dependants; and that the total number of records for all F-1, M-1, and J-1 visa holders has increased to approximately eleven million. 9,522 schools had been approved by SEVIS with 894,826 active students. There were 1,418 active J-1 programs with 217,125 active J-1 visitors.

Thirty six percent of all SEVP approved schools are within the states of California, New York, Florida, Texas and Pennsylvania – with New York having 701. The “School Data” section lists Cornell as having the largest number of F-1 and M-1 active students with 4,635. As for F-1 approval schools the second highest was the City University of New York with 8,940, with Columbia coming in fifth at 8,015.

The highest sending country is China with 233,992, with India coming in second at 96,674, South Korea third at 91,677, and Saudi Arabia fourth at 61,944. The leading major was business with 184,393 majors.

As to state non-immigrant student data, the highest states were California, New York, Texas, Massachusetts, Florida, Illinois, and Pennsylvania with fifty four percent of all active students. New York had 105,921.

Seventy two percent of active students were enrolled in Bachelors, Masters, or Doctoral programs with 292,660 in Bachelors programs, 227,502 in Masters programs, and 123,951 in Doctoral programs.

The entire General Quarterly Review may be found [here](#).

5) State Department Issues "J" Visa Waiver Statistics for 2012

The State Department has released its statistics for J-1 waiver (section 212(e)) recommendations for fiscal year 2012. By far, the largest category for waivers is the "no objection statement" with 4,453 of which 4,329 were favorable. 368 requests were made for exceptional hardship waivers with 287 favorable; 33 persecution waivers were requested with 21 favorable; and 157 interested government agency waivers were filed of which 153 were favorable. There were 1588 advisory opinion requests of which 774 were found "subject" and 814 "not subject."

6) Latest DACA Statistics

From August 15, 2012 through July 30, 2013 USCIS has received 573,404 DACA applications, of which it has accepted 552,918. 430,362 were approved and 7,450 were denied. USCIS projects a processing time goal of 6 months.

Mexico continues to be the top country of origin with 421,649 applications. By comparison, El Salvador is next with 21,134 applications.

California had 157,182 applicants, Texas 90,900, and New York 29,575. New Jersey had 16,055, still within the top ten.

It would appear that DACA receipts continue to fall off. Approximately 900,000 individuals were estimated to be immediately eligible for DACA, but as of July 13, 2013 only 573,404 applications had been filed with 430,236 approved. An interesting study of the actual response to DACA, and the reasons for the responses or lack thereof, was published by Brookings on August 14, 2013. The Brookings report may be found [here](#).

7) PC Tech Learning Owner Pleads Guilty

On August 28th, ICE published a News Release announcing the guilty plea of the owner of PC Tech Learning with facilities in Iselin and Jersey City, New Jersey. Apparently, the only reason this DSO would terminate was for nonpayment of fees. He is to be sentenced on December 5th. The Release may be found [here](#).

8) The Latest Scam

USCIS has recently reported a new telephone scam targeting USCIS applicants and petitions. The technique is called “Caller ID spoofing” which displays a misleading or inaccurate phone number in the recipient’s caller ID. The scammer poses as a USCIS official and requests personal information, for example a social security number, passport number, or alien registration number. The scammer then identifies supposed issues in the applicant’s immigration records and then requests payment in order to correct those records.

USCIS has advised that payment is never solicited telephonically, and advises that if an individual should receive such a call it should be reported to the Federal Trade Commission at <https://www.ftccomplaintassistant.gov/>.

Many thanks for your comments, your suggestions and your confidence in 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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