

DOS/CA Visa Office Liaison Call

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Contents:

1.	DOS Cable on Changes to OPT.....	1
2.	Visa Denial.....	2
3.	Correcting errors.....	2
4.	Effect of applying for new visa on current visa	3
5.	Interview language.....	3
6.	Documentation.....	4
7.	Standardized Tests are Not Required	5
8.	Lost/Destroyed Documents	5
9.	Immigrant intent	5
10.	Visas after Change of Status.....	6
11.	DS-7002.....	6
12.	PIMS	8
	<i>Other Questions Raised During the Call:</i>	8
13.	Third-Country National Applications	8
14.	Standards for Data Entry	8
15.	Implementation of ESTA.....	9

Participants:

1. Abigail Rupp, DOS/CA Visa Office
 2. Marjory Gooding, Vice-Chair, Policy & Practice (P&P) Committee
 3. Ivana Hrga-Griggs, Consular Affairs Point Person, P&P ISS Subcommittee
 4. Kirsten Snyder, NAFSA staff, Regulatory Practice Liaison
 5. Simone Kueltz, Notetaker
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1. DOS Cable on Changes to OPT

An institution reported that soon after the OPT Interim Final Rule became effective 4/8/08, a student was denied an F-1 visa because he had been unemployed for more than 90 days, although the unemployment preceded the effective date of the rule. NAFSA understands that DOS sent a cable to all posts regarding the changes to OPT, including the limit of 90 days of unemployment while a student is on post-completion OPT. Can DOS confirm that the cable clearly states that unemployment prior to the effective date of the rule 4/8/08 is not relevant to determining eligibility for future visas?

DOS Response: [The cable itself does not say that. However, it provides links to the SEVP guidance on unemployment, which clearly states that unemployment rules do not apply retroactively.](#)

Has the Foreign Affairs Manual (FAM) been updated with the changes to the OPT rule including the cap gap and STEM extensions available to qualifying students?

DOS Response: [We are in the process of updating the FAM regarding the OPT rule and will add a clarification about unemployment.](#)

NAFSA notes:

- [If there is a pattern of applying the OPT unemployment rule retroactively at certain posts, NAFSA may refer those cases to DOS. For individual cases, students/DSOs should contact the Public Inquiries line \(202-663-1225\) or the U.S. embassies/ consulates directly and report the issue to NAFSA through \[IssueNet: Report an Issue\]\(#\).](#)

- DOS is updating the entire 9 FAM by incorporating all guidance cables/memos. Note: DOS prefers updating the FAM over releasing the different internal memos/cables.
- The updated text has been prepared and is being published in section-by-section installments. The J sections (9 FAM 41.62, 41.63] have already been revised and posted [links provided at [9 FAM web site](#)]. If you note any incorrect information, please report to [IssueNet: Report an Issue](#).

2. Visa Denial

If a student is denied an F-1 visa, is there any official DOS policy regarding reapplication procedures (e.g. how soon s/he can reapply), or do reapplication procedures differ by consulate?

DOS Response: As of January 2008, posts are not permitted to bar applicants from reapplying. That said, many posts give first-time applicants priority so applicants who wish to reapply may have to wait longer for an appointment. The FAM is being updated with this information.

NAFSA note: Posts may recommend that an applicant wait to reapply until circumstances have changed, or may advise that an appointment may not be available for a period of time, but the post cannot bar an applicant from submitting another application.

3. Correcting errors

If a Consular Officer makes a typographical error on a visa, how should the student go about having the error corrected? Will the student be able to request a correction without undergoing the entire visa appointment process again? Will the machine readable visa fee be waived in these situations?

DOS Response: If the error was made by the consulate, we will reprint the visa and correct it free of charge. This is generally only possible to do before the student has departed the country and/or entered the U.S. Thus, we strongly recommend applicants verify the information on their visa, particularly visa type and biodata, before traveling to the U.S. The student should follow the post's guidelines for contacting the post in order to have the error corrected.

NAFSA notes:

- If typographical errors on a visa are not caught prior to the individual's arrival in the U.S. and the student is admitted properly, there should not be immigration issues. During the next travel the student should contact the U.S. embassy/ consulate to have the error on the visa corrected at no fee.
- However, the student may have other issues (e.g. Social Security will not accept documents that are inconsistent). The best practice is to recommend that the student check prior to entry (e.g. schools could include the advice in their welcome letter).
- Visa data entry by DOS is based on the applicant's passport information. It is very important that the SEVIS information is the same. SEVP is working on using DOS name standards and data entry formats. Still SEVIS starts the process and info will be pulled into DOS systems.
- DS-160 form will be phased in at different posts over the next year.
- Some country of birth names are not listed in the DOS databases as they existed in the past (e.g. Yugoslavia, Czechoslovakia). This should not cause database interface problems with SEVIS as DOS provided guidelines to SEVP for standardization and there is mapping and connecting of country codes between database systems (the codes still exist in the databases even though they are no longer in use).

4. Effect of applying for new visa on current visa

A student with a valid F-1 visa traveled home and applied for a new F-1 visa to accommodate future travel during the rest of his degree program. The visa has been delayed for some time; in the meantime, the student needs to return to the United States to resume his studies. Can the student return on the current valid visa while the renewal is pending? What is the impact of the student's travel on the pending new visa application?

DOS Response: If the current visa is still valid, the student may continue to travel with it. However, a student who travels while his/her application is pending takes a bit of a risk in that if the visa is denied, the student may not be permitted to enter the U.S. or could be subject to deportation proceedings.

NAFSA note: If the visa is approved, the student may submit the passport to the U.S. embassy/consulate again without appointment or fee payment the next time the student returns abroad. If nothing has happened in the meantime that has bearing on the application, it is likely the student will receive the visa, but there could still be administrative processing delays.

5. Interview language

A school admits students who are not fully proficient in English, as they offer a supplemental ESL program and the school feels that the students will be able to successfully study once they complete such program. Can the visa application interview be conducted in the student's native language for such students?

DOS Response: Yes. The FAM guidance below indicates that the consular officer should only interview in English if proficiency in English is required. However, the interview must be conducted in English for students where English proficiency is required for the particular course of study.

9 FAM 41.61 N6.1 Notation on Form I-20-A-B, Certificate of Eligibility for Nonimmigrant (F-1) Student Status-For Academic and Language Students or Form I-20-M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status-For Vocational Students

(CT:VISA-706; 02-17-2005)

If the alien's Form I-20-A-B, Certificate of Eligibility for Nonimmigrant (F-1) Students Status-For Academic and Language Student or Form I-20-M-N Certificate of Eligibility for Nonimmigrant (M-1) Student Status-For Vocational Students indicates that proficiency in English is required for pursuing the selected course of study and that no arrangements have been made to overcome any English-language deficiency, the consular officer must determine whether the alien has the necessary proficiency. To this end, the officer must conduct the visa interview in English and may require the applicant to read aloud from an English-language book, periodical, or newspaper, and to restate in English in the applicant's own words what was read. The applicant may also be asked to read aloud and explain several of the conditions set forth in the Form I-20-A-B or Form I-20-M-N. A student must demonstrate English language proficiency only if an admitting institution has made English language ability a requirement for the intended course of

study.

6. Documentation

Should students and scholars bring a copy of their CV and research/dissertation information, or should they only submit this information if requested by the Consular Officer?

DOS Response: If they have been requested to submit it in the past, they may want to bring it for future interviews as well. It is not required but may be provided upon request. The below guidance is on www.travel.state.gov under the "Student Visas" section:

All applicants for a student visa **must provide**:

- **Form I-20A-B, Certificate of Eligibility for Nonimmigrant (F-1) Student Status-For Academic and Language Students or Form I-20M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status for Vocational Students.** You will need to submit a SEVIS generated Form, I-20, which was provided to you by your school. You and your school official must sign the I-20 form. All students, as well as their spouses and dependents must be registered in the Student and Exchange Visitor Information System (SEVIS), an Internet-based system that maintains accurate and current information on non-immigrant students and exchange visitors and their dependents (F/M-2 visa holders). Your school is responsible for entering your information for the I-20 student visa form into SEVIS. Students will also have to pay an SEVIS I-901 fee for each program of study. Questions regarding your exchange program should be directed to your program sponsor;
- A completed application, Nonimmigrant Visa Applicant, Form DS-156, together with a [Form DS-158](#). Both forms must be completed and signed. Some applicants will also be required to complete and sign [Form DS-157](#). A separate form is needed for children, even if they are included in a parent's passport. **The DS-156 must be the March 2006 date, electronic "e-form application."** Select [Nonimmigrant Visa Application Form DS-156](#) to access the electronic version of the form DS-156.
- An interview at the embassy consular section is required for almost all visa applicants. The [waiting time](#) for an interview appointment for applicants can vary, so early visa application is strongly encouraged. During the visa interview, an ink-free, digital fingerprint scan will be quickly taken, as well as a digital photo. Some applicants will need additional screening, and will be notified when they apply.
- A passport valid for travel to the United States and with a validity date at least six months beyond the applicant's intended period of stay in the United States (unless [country-specific agreements](#) provide exemptions). If more than one person is included in the passport, each person desiring a visa must complete an application.
- One (1) 2x2 photograph. [See the required photo format explained in nonimmigrant photograph requirements](#);
- A MRV fee receipt to show payment of the visa application fee, a visa issuance fee if applicable (Please consult the [Visa Reciprocity Table](#)) and a separate SEVIS I-901 fee receipt. While all F-visa applicants must pay the MRV fee, including dependents, only the F-1 principal applicants must pay the SEVIS fee.
- Students who are authorized for Optional Practical Training (OPT) must have an I-20 endorsed for OPT, and provide a USCIS-issued Employment Authorization Document (EAD).

All applicants **should be prepared** to provide:

- Transcripts and diplomas from previous institutions attended;

- scores from standardized tests required by the educational institution such as the TOEFL, SAT, GRE, GMAT, etc.;
- financial evidence that shows you or your parents who are sponsoring you have sufficient funds to cover your tuition and living expenses during the period of your intended study. For example, if you or your sponsor is a salaried employee, please bring income tax documents and original bank books and/or statements. If you or your sponsor own a business, please bring business registration, licenses, etc., and tax documents, as well as original bank books and/or statements.

Applicants with dependents **must** also provide:

- Proof of the student's relationship to his/her spouse and/or children (e.g., marriage and birth certificates.);
- it is preferred that families apply for F-1 and F-2 visas at the same time, but if the spouse and children must apply separately at a later time, they should bring a copy of the student visa holder's passport and visa, along with all other required documents.

7. Standardized Tests are Not Required

A member reports being told by a Consular Officer stationed in India that all undergraduates from India must present SAT or ACT results before being able to obtain a visa, even if the admitting university does not require the test. Can DOS confirm that standardized test results are not required for a student visa?

DOS Response: See above. This information is not required but may be requested.

NAFSA note: If the student is asked to provide test scores and the university does not require these tests, the applicant should provide documentation as proof. There is no procedural guidance for posts that states ACT or SAT scores are required. If a consular web site states that standardized tests are required, please report through [IssueNet: Report an Issue](#).

8. Lost/Destroyed Documents

If documents are requested that a visa applicant no longer has access to due to civil war, natural disaster, etc., how should the applicant proceed?

DOS Response: The applicant should tell the consular officer the situation. Some document requirements can be waived; others (e.g. I-20) cannot be waived.

9. Immigrant intent

If a prospective student is already in the process of immigrating to the United States (e.g., an individual married to a U.S. citizen who has a pending permanent residence petition), is the individual eligible for an F-1 visa?

DOS Response: Yes, they are eligible to apply, but they have to establish that they do not intend to abandon their residence abroad at the current time, which would certainly be more difficult in this case.

NAFSA note: See the [NAFSA Practice Advisory on Pending Adjustment Applicant Status Issues](#) for more information on travel while an application is pending.

10. Visas after Change of Status

Some students enter the U.S. as J-1 (au pair or summer work) and change status in the U.S. to F-1. These students are afraid to travel and apply for an F-1 visa according to their changed status. Can DOS provide any assurance for students who are seeking an F-1 visa after a change of status?

DOS Response: If they qualify for an F-1 visa, they will receive one. If NAFSA has examples to the contrary, please provide specific case information.

NAFSA note: Although DHS has authority to approve the change of status in the U.S., a consular officer may still ask questions during the visa application process if the change of status was filed shortly after arrival in the U.S. under a different visa status. DOS may want to determine whether the applicant was honest in obtaining the prior visa (e.g. DOS may question intent if the applicant previously stated that his/her purpose was visiting Disneyland, but quickly changed status to begin a PhD program).

11. DS-7002

NAFSA continues to receive reports that the Paris Consulate incorrectly requires a DS-7002 for J-1 that are not Trainees or Interns. We believe the reports reflect that the Paris Consulate Web site is unclear regarding the requirements for the different subcategories of J-1 exchange visitors.

May we suggest the following changes to the Web site?

- a. On the Non-Immigrant Visa Web site [http://france.usembassy.gov/niv_types.html], there is no link for "Exchange Visitor," although there are links to "Au Pair" and "Internships/Training." Since the "Internships/Training" actually goes to the general Exchange Visitor Program web page, we would suggest either making separate pages ("Internships/Training" & "Exchange Visitor- all other categories") or renaming the current link "Exchange Visitors" and listing examples of the subcategories (see below for example). Since "students" may come in under an F-1, M-1, or J-1 visa, it may also help to list the visa types with the description, for example "Student (e.g. F-1, M-1)."

Non-Immigrant Visas

Types of Visas

Specific information about the types of non-immigrant visas may be found by following the links.

- [Athletes, Artists and Entertainers](#)
- [Au Pair](#)
- [Business/Tourists](#)
- [Diplomats & Officials](#)
- [Domestic Employees](#)
- [Internships/Training](#) Exchange Visitors (J-1 student, scholar, professor, summer work & travel, Trainee, Intern, etc)
- [Media](#)
- [Religious Workers](#)
- [Sea & Air Crew](#)
- [Students](#) (e.g. F-1, M-1)
- [Transit](#)
- [Treaty Trader/Investor](#)
- [Work](#)

- b. In the required list of documents on the Web site [<http://france.usembassy.gov/internships.html>], we would also suggest moving the DS-7002 to the end of the list, and specifying that the DS-7002 is only required for the Trainee or Intern subcategories, e.g.:

Please bring the following documents to the visa interview:

1. Passport
2. [One photo](#)
3. [Application fee](#) (mandat de compte)
4. Self-addressed Chronopost envelope
5. [DS-156](#)
6. [DS-157](#)
7. [DS-158](#)
8. Original DS-2019 (issued by the sponsoring organization)
9. Proof of payment of [SEVIS Fee](#)
10. [Documentation supporting your visa application](#)

(11.) If you are applying for a J-1 visa as a trainee or intern, you must also bring a DS-7002 Training/Internship Placement Plan.

DOS Response: DOS sent these suggestions to the Paris consulate July 31, 2008. Post indicated they would look at the suggested changes and implement them if they felt they were necessary.

NAFSA note: DOS will follow up with the post to see if the Post plans to implement. If a student or scholar who is not a J-1 trainee/intern is asked to provide a DS-7002 by any consulate, or if incorrect information is on the consulate web site, please report to [IssueNet: Report an Issue](#).

12. PIMS

What information can be seen in the PIMS report (e.g. is it only the I-797 approval notice #)?

DOS Response: The PIMS report is a summary of the data in the petition itself. In most cases every page of the petition and all supporting documents attached to the petition are also scanned in. There may be additional data provided by the Kentucky Consular Center, which sometimes verifies the bona fides of the petitioner as a preliminary fraud check.

NAFSA notes:

- DOS also advised that if there are errors in the underlying petition, DHS has to make any corrections; DOS is unable to do so.
- While PIMS issues can usually be resolved within 1-2 days, NAFSA has received some reports of the process taking longer. If a student or scholar is experiencing a PIMS delay, please report to [IssueNet: Report an Issue](#).
- Please note that PIMS is only one type of “administrative processing” delay. Some visa applications require additional administrative processing, which requires some additional time. Most administrative processing is resolved within 60 days of application. Therefore, before making inquiries about status of administrative processing, applicants or their representatives will need to wait at least 90 days from the date of interview or submission of supplemental documents, whichever is later. If a student or scholar is experiencing an administrative processing delay of more than 90 days, please report to [IssueNet: Report an Issue](#).

Other Questions Raised During the Call:

13. Third-Country National Applications

NAFSA has received reports that some European posts, including London, are saying that they won't take third-country national applications for a period of time.

DOS Response: DOS stated on the call that the guidance for third-country national applications is the same as the guidance for repeat applications. A post ordinarily should not refuse to accept an application from a third-country national who is either a resident of or physically present in the consular district. However, like re-applications, third-country nationals might get lower priority appointments during the summer than initial applications from residents.

14. Standards for Data Entry

After multiple interagency meetings between DOS Consular Affairs, DOS Educational & Cultural Affairs, and DHS bureaus (ICE, USCIS, CBP, USVISIT, etc), the agencies have agreed to use the DOS standards for data entry of names (available in the Foreign Affairs Manual as [9 FAM Appendix F](#)) to facilitate inter-agency database interfaces, including rules on apostrophes and “FNU- first name unknown” for single names.

NAFSA note: NAFSA has been unable to confirm the above information with SEVP in relation to data entry in SEVIS. A question on this issue has been deferred to the October 2008 [SEVIS Monthly Technical & Policy teleconference](#).

15. Implementation of ESTA

DOS is preparing for the rollout of the Electronic System for Travel Authorization (ESTA) for individuals from Visa Waiver countries. ESTA is a new fully automated, electronic system for screening passengers before they begin travel to the United States under the Visa Waiver Program. DHS began to accept voluntary ESTA applications starting on August 1, 2008. Once ESTA is mandatory (DHS estimates indicate January 2009), all nationals or citizens of VWP countries who plan to travel to the United States for temporary business or pleasure under the VWP will be required to receive an authorization through ESTA prior to boarding a U.S.-bound airplane or vessel. Learn more about ESTA on the DHS Customs and Border Protection (CBP) [ESTA website](#). DHS has already received close to 200,000 applications, and the system seems to be working as expected. Denial rates are very low.