

Inter-agency Government Panel

regulatory questions and perspectives

NAFSA Region III and VII
Bi-regional conference
San Juan, PR, October 14 – 18, 2012

Alternate titles:

- There are No Stupid Questions; only Unanswered Ones
- Be the Regulatory Buddha: Love the Question, not the Answer
- Elusive Truths; Reluctant Answers: The Search for Chapter 35 of the AFM
- Kafka on Steroids; A Regulatory Q & A
- Prozac and Panels; How to Survive Regulatory Info Sessions

Things to keep in mind...

- Idealism vs. Reality... Someone said: “We believe that visa quotas should be lifted and people should visit anywhere they wish freely”.
 - But – we must operate within existing systems and regulations...
- USCIS stats –Admissions to the U.S. in 2011
 - Percentage H-1B? F-1? EV?
 - 3.1%
 - 10.7%
 - 2.9%
 - Small percentage of the overall workload of officers.
- Panels like these are an attempt to improve communications, to understand differing perspectives, and to problem-solve.

Participants

- Robert Lucas, CTCEU
- Molly French, SEVP
- Katherine Liggatt, SEVP
- Brooke Basden, USCIS
 - Call-in participants from SCOPS and SC's (Donna Kane; Angela Barrows, Jennifer Kuylen; Ana Rili, Candice Hsu, Michelle Westra, Lu Goodman, Helen Tran, Jennie DeVera, Valerie Hyunh; John Baldwin;
- David W. Franz, Consular Affairs, Dept. of State
- Luis E. Muñiz, CBP, San Juan, PR

- Moderator: Robin Catmur, NAFSA and UGA

Context / Perspective Questions

- What was your prior work experience? Why did you get into this line of work?
- What are some major challenges facing you and your agency?
- What is the one thing that school representatives could do to help make your job easier?
- How often do you actually talk to each other? At what levels do your agencies interact?

CBP, CIS, SEVP, DoS:

- Update on processes within your agencies that currently require an I-94 card, which may soon...go away...?
- Discontinuance of I-20 / DS-2019 form stamping as of 8/10/2012:
 - Have adjudicators been trained on this practice?
 - Have you seen any difficulties relating to this?
 - Any difficulties with students sending copies of I-20 forms as mandated in early June?
 - Have field offices seen an increase in workloads due to students wanting a stamp on their form? This service was set to continue until November 21, 2012. Is there a possibility of extension?
 - Will this process affects the I- 515 procedures at all? One might reasonably assume that if the I 20 form no longer requires an original signature and an I 94 card will no longer be issued, that the I 515 process would be obviated?

...and more...

- Delay in data entry on I-94 cards – difficulties at DMV offices and SSA offices...what caused this? Resolved?
- Early warning to stakeholders when changes such as the above are imminent? Time to prepare our offices, staff, students, scholars, etc would be appreciated...
- If a student fails to report on OPT employment, will CIS deny a benefit such as a STEM extension? If a student fails to report *any* employment, after 90 days, do we leave the SEVIS record alone? Terminate for failure to report?
- If CIS denies a benefit for > 90 days unemployment, the SEVIS record stays active. We may not know about any denials – but what should we do with the SEVIS record if we know the STEM extension was denied, and the SEVIS record is active?

SEVP , CIS – Service Centers

- SEVP: If an F-1 student has a child in the U.S., that child may be eligible for federal benefits.
 - Is the F-1 student jeopardizing her lawful status by applying for and receiving federal benefits for her U.S. citizen child?
- CIS: Syrian Special Student Relief: What code should be used on the I-765 form? USCIS has not issued specific guidelines for the Syrian program, except to annotate the bottom right-hand side of the mailing envelope with the phrase "SPECIAL STUDENT RELIEF."

CIS, SEVP, DoS

- ALL: New Iranian sanctions law. Will CIS adjudicators be taking this into consideration when adjudicating cases? Will SEVP be providing guidance? What are DSO's to do currently? Will State Dept. be denying visas?
- **Some general questions from NAFSA:**
 - How does it affect prospective students who would like to come to the United States after August 10, 2012 to begin their studies?
 - How does it affect covered Iranians who were outside the US on August 10, 2012 on a "brief, casual, innocent" visit abroad, and who had planned to reenter the US to resume their studies?
 - How does it affect covered Iranians who were in the US on August 10, 2012, but would like to travel abroad after that date and then return to resume studies?
 - How does it affect prospective or current students who will study in a nonimmigrant status other than a student status (e.g., an H-4 dependent)?
 - Although the language of the law focuses on visas and admission to the United States, can the law be read in any way so as to impact:
 - Change of status?
 - Extension of stay?
 - Practical training/Academic training?

SEVP, CIS

- Senator Grassley wrote a letter to GAO in late May of this year urging a full investigation into the use of OPT, oversight, weaknesses, etc. Did this have anything to do with the new restrictive view of the 30 day limit on OPT recommendations?
- Sen. Grassley's concerns include whether DHS is properly overseeing OPT, what impact OPT might have on U.S. labor, and whether there are "loopholes" in the system that can compromise U.S. security.
- What responses might we see to this sort of inquiry?

SEVP, CIS

- OPT denials at service centers if the application is not receipted within 30 days of the date the OPT is recommended in SEVIS. This is a new interpretation for CIS.
 - What generated this inflexible interpretation?
 - How does SEVP interpret this?
- CIS / SCOPS / Service Centers / SEVP: A University received an RFE for an OPT application regarding a prior CPT approval. The RFE asked for:
 - a "program description showing that CPT is necessary to obtain the degree."
 - "evidence that you earned credit towards your degree for the full time CPT."
 - Can you confirm that this RFE was in error – and that adjudicators do not have authority for adjudicating a prior CPT approval?
- ALL: SEVP Policy Guidance 1004-03 about OPT: (4/3/10), states: if a student on a STEM extension changes employers, s/he needed to submit a new I-765 with the new employer's e-verify info. on it, with a paid receipt from the 1st I-765, to USCIS. Confirm that this only applies if the STEM extension is pending? Texas Service Center has indicated that they prefer DSO's do this update via their .schools email address for DSO's – Is this the same at all SC's?

SEVP, CIS

- SEVP's DSO training indicates: "Students authorized by the school for a partial course load in their final session are automatically considered full-time students. SEVIS authorization is optional (there is functionality in SEVIS but recording a partial course load in the final semester is not required)." We know of two cases for OPT filed with USCIS that were denied because the final term RCL was not noted in SEVIS.
- Please confirm that you are training officers that final term RCL is optional, and not mandatory. SEVP – please confirm this?

...and more...

- CIS / ELIS:
 - Comments or updates on how ELIS is operating?
 - Processing times?
 - We have heard rumors of difficulties?
 - When asked about work in U.S. – F-1 students approved for OPT are taken to a screen that refers to “unauthorized” employment. When will this be fixed?
 - When will more forms/ categories be added?

Open Questions

NAFSA Regulatory Ombudspersons

- Region III:
 - Kathleen Gasparian, Scholar / Employment Issues:
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 - Regina Henry, Student Issues:
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- Region VII:
 - Robin Catmur, Scholar / Employment Issues:
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