

**Meeting Report**  
**USCIS California Service Center Stakeholder Meeting**  
**January 26, 2011**

*This meeting report consists of notes taken during a verbal presentation by staff of the U. S. Citizenship and Immigration Services (USCIS) California Service Center (CSC) on January 26, 2010. The report focuses on topics that may be of interest to NAFSAns. It has not been reviewed by USCIS. Nothing in it should be considered legal advice or guidance published by USCIS.*

CSC stated that it would soon post its own executive summary of the information conveyed at the meeting in the “Outreach” section of USCIS web site ([www.uscis.gov](http://www.uscis.gov)) under [Notes from Previous Engagements](#). The meeting took place at the CSC facility in Laguna Niguel, California, on Wednesday January 26, 2011 from 1:00 to 3:00, and a tour of the facilities followed. The meeting was open to the public, and it was possible to participate in person or via teleconference. Chris Robinson, Community Relations Officer for CSC, served as organizer and moderator of the meeting.

**Table of Contents**

<b>GENERAL CSC PROCESSING .....</b>	<b>2</b>
<b>H-1B PETITIONS .....</b>	<b>2</b>
<b>H-1B Petition Processing Time .....</b>	<b>2</b>
<b>Affiliation RFEs .....</b>	<b>3</b>
<b>Credential Evaluation RFEs .....</b>	<b>3</b>
<b>New Export Control Attestation .....</b>	<b>3</b>
<b>Correcting Minor Errors on Pending H-1B Petitions .....</b>	<b>3</b>
<b>Telecommuting H-1Bs .....</b>	<b>4</b>
<b>Offsite Employment .....</b>	<b>4</b>
<b>H-1B RFE Template .....</b>	<b>4</b>
<b>“AC21 Extensions” .....</b>	<b>4</b>
<b>Beneficiary’s Prior SEVIS and EAD Numbers .....</b>	<b>4</b>
<b>O-1 PETITIONS .....</b>	<b>5</b>
<b>RELIGIOUS WORKER AND “SPECIAL IMMIGRANT” PETITIONS .....</b>	<b>5</b>
<b>PREMIUM PROCESSING AND RETURN FEDEX PACKAGE .....</b>	<b>5</b>
<b>M-1 OPT AND THE I-539 REQUIREMENT .....</b>	<b>5</b>
<b>PIMS – PETITION INFORMATION MANAGEMENT SYSTEM .....</b>	<b>6</b>
<b>RECEIPT NUMBER NOT IN ONLINE CASE STATUS SYSTEM .....</b>	<b>6</b>
<b>RESOLVING SAVE PROBLEMS .....</b>	<b>6</b>
<b>PETITIONS TO REMOVE THE CONDITIONS ON RESIDENCE .....</b>	<b>6</b>

## **GENERAL CSC PROCESSING**

Rosemary Melville, Director of CSC, provided opening comments. Concerning posted processing times, CSC is aware that there are discrepancies in the "[USCIS Processing Time Information for Our California Service Center](#)" posted on the USCIS web site and the processing times displayed in "[My Case Status](#)", and CSC is working to remedy the problem [Note: NAFSA has learned that the same problem exists with Texas Service Center and possibly others]. CSC is "current" on most application and petition types, and was able to become "current" by shifting staff—pursuant to the USCIS staffing model—to areas in which backlogs were developing and by obtaining additional resources from Headquarters to address the I-129 backlog. Director Melville encouraged petitioners with H-1B petitions pending more than two months, who had not received an RFE, to inquire about their petitions through the National Customer Service Center (NCSC) at 800-375-5283 (see "H-1B Processing Time" below). There is a nationwide effort underway within USCIS to improve consistency in adjudications, as indicated by—among other things—the use of revised RFE templates, some of which have been made available to the public for comment. When it deems an RFE necessary, USCIS is attempting to avoid issuing general, boilerplate RFEs in favor of specific RFEs addressing the evidence already submitted and the reasons that it is insufficient to warrant approval. CSC recently shifted a backlog of about 34,000 immigrant petitions (I-130s) for "immediate relatives of U.S. citizens" to Texas Service Center (TSC), but unfortunately TSC was not able to process them as quickly as intended, so efforts are underway to speed processing of this backlog. CSC has focused significant resources on "USCIS transformation" (see [summaries and webinar](#)), a "large project," and expects one component ("release A") to take effect by the end of this year, and a second component ("release B") to take effect next year. Rich Nicholson, Assistant Center Director, Division VII, also provided a brief update and noted that the institution of lockbox processes had changed some intake processes at CSC.

*Additional general information from the CSC tour: CSC is the only USCIS service center housed completely within one facility ("under one roof"). Approximately 700 federal employees and 400 contractor ("Stanley SCOSS") employees comprise the CSC workforce, and the center operates two shifts. CSC receives approximately \$32 million in fees each month and processes about 60,000 to 80,000 applications and petitions per month. All denials are reviewed by a supervisor.*

## **H-1B PETITIONS**

Joe Fierro, Assistant Center Director, Division I, provided a general update and responded to questions submitted in advance and from the floor.

### **H-1B Petition Processing Time**

Processing time for I-129 H-1B petitions is down to two months. Division VI is continuing to assist Division I in processing these petitions to help assure reasonable processing times.

Stakeholders noted that some petitions filed well over two months ago remain pending at CSC. In response, CSC agreed that it would accept inquiries (through NCSC) on any H-1B petitions filed before October 1, 2010. CSC assured stakeholders that it would update the NCSC scripts so that such inquiries would be possible.

### Affiliation RFEs

Concerning stakeholders' perceived increase in RFEs related to the affiliations of non-profit and research entities with universities (that would qualify them for exemption from the H-1B quota), CSC confirmed that there has been no change in policy and that CSC still follows the June 6, 2006 [Aytes Memo](#).

### Credential Evaluation RFEs

In response to a submitted question concerning whether there has been a change in the regulations that would lead to an increase in RFEs for credential evaluations, even for degrees from the world's leading educational institutions, USCIS indicated "no." CSC did not expand on the implication that such RFEs had increased. [NAFSA note: see *Adviser's Manual*, section 7.23.3, for information about the regulatory requirement that the beneficiary "hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree." See also the Form I-129 instructions ("initial evidence 3A") which require evidence that a foreign degree is equivalent to a U.S. degree].

### New Export Control Attestation

CSC hopes that "USCIS Headquarters" (Service Center Operations – SCOPS) will issue guidance concerning the many questions that have arisen concerning the [new export control attestation](#) on Form I-129. A question posed from the floor was what kinds of issues surrounding the attestation—other than a failure to answer the questions—might result in denial of a petition. CSC said that until it had guidance from USCIS Headquarters, it would be impossible to answer such questions.

### Correcting Minor Errors on Pending H-1B Petitions

USCIS will correct a petitioner's error on a pending petition, if the error is not a "material" one, if the petitioner contacts NCSC or, if premium processing has been requested, the Premium Processing Unit [NAFSA note: there's no immediately available definition of "material error," and practitioners report that it can be difficult or impossible to have such a correction made through NCSC, though the Premium Processing Unit is often willing to correct errors such as typographical errors].

## Telecommuting H-1Bs

CSC recognizes that telecommuting is increasingly common and that neither statute nor regulation would prohibit an H-1B employee from telecommuting. It is essential, however, that an employer-employee exist and be established in the H-1B petition (see additional [background](#) on the required employer-employee relationship).

## Offsite Employment

CSC considers “offsite employment” to be employment carried out at a client’s facilities, not simply a short-term placement of an employee at another of the petitioning employer’s facilities (see additional [background](#) on this issue and the required employer-employee relationship).

## H-1B RFE Template

In response to a submitted question, CSC confirmed that there is not a “new H-1B RFE template,” and stated that adjudicators are restricted to issuing specific RFEs that address the evidence submitted and state the reasons that it is insufficient to warrant approval of the petition.

## “AC21 Extensions”

CSC was asked whether an adjudicator handling a petition requesting an extension beyond six years based on a labor certification application or immigrant petition (I-140) filed for 365 days or more also checked to see if the I-140 had been approved, which might allow a three-year extension rather than a one year extension. CSC indicated that no such check would occur. If the petition requested a one year extension, only that extension request would be considered. [NAFSA note: see *Adviser’s Manual*, section 7.32, for more information on “special H-1B status beyond six years”].

## Beneficiary’s Prior SEVIS and EAD Numbers

Concerning part 3 of Form I-129 (“beneficiary information”), and particularly the requirement that the beneficiary’s SEVIS number and EAD number be provided, if applicable, CSC confirmed that it is most interested in the beneficiary’s current numbers. CSC added that it could be helpful to have prior numbers, but that it certainly wouldn’t expect to have an EAD number, for example, for a beneficiary who had an EAD a decade ago.

## **O-1 PETITIONS**

### **Re-Adjudicating O-1 Eligibility in Extension Petitions**

CSC indicated that it follows the 2004 [Yates Memo](#) in adjudicating O-1 extension petitions, and that—while adjudicators do have the right to question a prior decision concerning the beneficiary’s eligibility for O-1 classification—deference is given to the prior conclusion that the beneficiary was eligible unless clear evidence to the contrary exists. In other words, CSC “presupposes to some extent” that the beneficiary remains qualified and that the requirements remain satisfied unless there has been a material change. CSC asked to receive RFEs or NOIDs that indicate variance from the 2004 memo.

## **RELIGIOUS WORKER AND “SPECIAL IMMIGRANT” PETITIONS**

John Abram, Assistant Center Director, Divisions II and III, provided a general update concerning premium processing and several other areas within his divisions. He noted that processing times for Form I-129R and Form I-360 were “way off goal,” but expected that they would become “current” in the next few months.

## **PREMIUM PROCESSING AND RETURN FEDEX PACKAGE**

John Abram, Assistant Center Director, Divisions II and III, was asked from the floor whether CSC will use a “return Fedex package” submitted with a petition by the petitioner to return the petition if it is rejected. The stakeholder noted that CSC’s willingness to use the return Fedex envelope to send an approval notice was appreciated but emphasized that it can take up to two weeks to receive a rejected petition, and this delay can have dire consequences for beneficiaries and petitioners in some cases. ACD Abram stated that CSC must proceed carefully since Fedex charges CSC if “anything goes wrong” with the package supplied by the petitioner, but that CSC will consider using this request.

## **M-1 OPT AND THE I-539 REQUIREMENT**

John Abram, Assistant Center Director, Divisions II and III, stated that whether or not Form I-539 was required to accompany a Form I-765 for M-1 Optional Practical Training (OPT) depended on the applicant’s Form I-94 expiration date. If the I-94 expiration date continued until the end of the requested period of OPT, then the Form I-539 would not be required. However, if the requested period of OPT would continue beyond the I-94 expiration date, then the Form I-539 would be required to extend the student’s status to cover the period of OPT. A stakeholder noted that the SEVP Help Desk has indicated that no extension of the SEVIS record is required for M-1 OPT, but occasionally CSC has requested extension of the SEVIS record before it will approve an M-1 student’s OPT request. She noted that the Help Desk has even provided a letter to this effect, which she has submitted to CSC, only to have the adjudicating

officer dispute SEVP's opinion. She urged SEVP and USCIS to settle this issue, and Community Relations Officer Chris Robinson agreed to seek a solution from Headquarters.

### **PIMS – PETITION INFORMATION MANAGEMENT SYSTEM**

In response to a question from the floor, Gerald McMahon, Assistant Center Director, Division VI, confirmed that petitioners are still required/strongly encouraged to file a duplicate petitions for PIMS [see *Adviser's Manual*, section 7.35.1, and [PIMS Practice Advisory](#)].

### **RECEIPT NUMBER NOT IN ONLINE CASE STATUS SYSTEM**

Gerald McMahon, Assistant Center Director, Division VI, noted that an "IT issue" had caused some receipt numbers not to be fed into the USCIS [Online Case Status System](#), but he added that the problem has been resolved. He advised petitioners and applicants whose receipt number has not appeared in the system within 30 days of filing to contact NCSC, who will route an inquiry to the CSC IT section so that the problem can be resolved.

### **RESOLVING SAVE PROBLEMS**

Gerald McMahon, Assistant Center Director, Division VI, provided an update concerning several general processing issues and reminded stakeholders that while only another government agency can use Form G-845 to resolve a problem with information in the Systematic Alien Verification Entitlements or [SAVE](#) system, the contact center (888-464-4218) and technical help line (800-741-5023) are available to the public, and e-mail inquiries are possible ([SAVE.HELP@dhs.gov](mailto:SAVE.HELP@dhs.gov)).

### **PETITIONS TO REMOVE THE CONDITIONS ON RESIDENCE**

Rose Prince, Assistant Center Director, Division VI, noted that Form I-751 (petition to remove the conditions of residence) and instructions are under revision. She also noted that recent problems in the CLAIMS system resulted in non-issuance of some notices and duplicate notices for some cases. She assured stakeholders that the problems had been fixed and that they should not continue to experience missing or duplicate notices.

### **OTHER UPDATES**

There were also brief updates from Lu Goodman, Assistant Center Director for Division V, Carolyn Nguyen, Assistant Center Director for Division IV, Kurt Gooselaw, Assistant Center Director for Division XI, Danielle Lee, Assistant Center Director for Division X, and Bobbie Johnson.