

GOLDSTEIN AND CHEUNG, LLP
80 Maiden Lane, Suite 1008
New York, NY 10038
212-374-1544
Fax 212-374-1435
contact@gcimmigrationlaw.com
<http://www.gcimmigrationlaw.com>

Eugene Goldstein
Lucy G. Cheung
Michael J. Goldstein

April 13, 2020

MEMORANDUM

To: **International Education Program Administrators**

From the Desk of Eugene Goldstein:

This is a difficult Memorandum to write with our overarching concerns for the health and safety of all of our community, and beyond. But it is important to stay focused on our students, many of whom are adrift in their brave new world.

I have collected SEVP materials under “Practical Stuff”, but the various federal agencies have been very busy reacting to the pandemic with closed borders and limited airline flights. I assume that many international students remain in the U.S. on campus, if able or elsewhere within our communities. Their care may be our greatest challenge.

Presidential Proclamations have closed the U.S. borders for all Schengen area countries, including the U.K. and Ireland as well as China and Iran. The U.S./Canadian border has been closed, as has the U.S. Mexican border.

Visa services have been discontinued in most, if not all U.S. consulates, and USCIS field offices as well as application support centers have closed, originally until April 1, but possibly until the end of the National Emergency. USCIS has suspended routine in-person services (i.e. field offices) through at least May 3.

Meanwhile, our current government must continue to deal with the surreal environment it has created, but in a pandemic. ICE states that it will not enter hospitals. There has been no statement about arrests outside actual hospital premises. USCIS, has informally clarified that testing screening and treatment for communicable diseases will not affect any future public charge determination under the new regulations whether a green card or for a nonimmigrant change of status.

Back to our usual world, a U.S. District Court for the District of Columbia found on March 1, that USCIS Acting Director Ken Cuccinelli had been illegally appointed as he was not statutorily eligible for the post (L.M., et al, v. Kenneth T. Cuccinelli, 19-2676

(RDM). The decision was reported in *The New York Times* on March 2. Is he an undocumented Director?

The *New Yorker* of March 2, ran an extensive profile on Presidential Advisor Stephen Miller, the administration's top immigration authority. It will explain a lot of the current immigration environment.

The CBP leadership discussed how officers are staffed and trained. They indicated that there has been significant turnover in the last two years. Fifty to sixty percent of the workforce in New York has two years or less experience on the job.

New officers start their training with 2-4 weeks of administrative duties. They then spend 19 weeks at the academy. After returning from the academy, they spend 37-weeks in on the job training. During the 37-week period, they perform inspections under the supervision of a supervisor, who watches over 5 to 6 trainees at any given time.

Officers get to bid on where they want to work starting in September or October of each year. The bid process is based on seniority. Most officers work in passenger processing.

...

Practical Stuff

- 1) SEVP Postings
- 2) Eight Digits to Nine Digits
- 3) H-1B Premium Processing Temporarily Suspended for all Petitions using Forms I-129, and I-140
- 4) USCIS and Marijuana Use
- 5) TPS Developments

Re-Registration Open for Somalia

Liberian DED Winddown Period Extended

1) SEVP Postings

On March 9, SEVP posted “Broadcast Message: Coronavirus Disease 2019 (COVID-19) and Potential Procedural Adaptations for F and M nonimmigrant students” (Number 2003-01 which supersedes the Broadcast Message of January 29, Number 2001-05).

The Broadcast Message (BM) advises students to check CDC, CBP and DOS Guidance for entry issues and requires schools to report “procedural adaptations” to SEVP using a template supplied.

OPT is also affected for reporting adaptations such as teleworking. The message may be found [here](#).

Shortly after the BM, ICE posted COVID-19: Guidance for SEVP Stakeholders in its “What’s New” posting in which it noted that

F and M students must continue to take all the necessary actions to remain in status, to the extent possible under the circumstances, and communicate with their designated school official (DSO) about the emergency plans on their campus, including any changes to their address.

and advised schools that SEVP must be notified within ten days of “procedural adaptations.”

2) Eight Digits to Nine Digits

The minutes of an AILA/DOS Liaison meeting held on March 5, mention

Q. The DS-3035 form has space for only 8-digit Alien numbers, whereas more recently issues A numbers are nine digits. Does State have plans to update the online form to provide for nine digits?

A. The Department intends to remove the Alien number (A number) from the DS-3025 in the upcoming renewal of the DS-3035, because there is no longer a need for the A number on the form. Until the form is updated, applicants may leave this item blank.

3) Premium Processing Temporarily Suspended for all Petitions using Forms I-129, and I-140

On March 16, USCIS posted an announcement suspending premium processing for cap-subject H-1B petitions starting April 1, 2020. Specifics about resumption of Premium Processing both for the advanced degree exemption, and later for others, may be found [here](#). Meanwhile cap filing season began on April 1.

A few days later, without notice, on March 20, USCIS announced that it would immediately temporarily suspend premium processing for all petitions using Forms I-129 and I-140 due to the Coronavirus Pandemic. The announcement may be found [here](#).

4) USCIS and Marijuana Use

Although many states have legalized marijuana use and sale, generally of small amounts, the U.S. Federal government has not. Therefore, an admission of use sale or possession, even in a benefits context can made an individual removeable. It has been reported that USCIS in the states of Washington and Colorado has aggressively pursued this line of inquiry. District offices in those states are already using a template for questioning. It is unknown at this time whether other offices are following this practice.

5) TPS Developments

Re-Registration Open for Somalia

On March 11, USCIS announced that TPS would be extended through September 17, 2021 from March 18, 2020. Registration should be done within a 60 day window from March 11 through May 11, 2020. USCIS advises that currently, approximately 454 beneficiaries eligible to reregister. The USCIS information page with a link to the Federal Registrar can be found [here](#).

TPS for Yemen Extended through September 3, 2021

On March 3, USCIS posted its announcement that beneficiaries of TPS for Yemen may presently re-register for coverage until September 3, 2021. The 60 day re-registration window is from March 2 through May 1, 2020. USCIS estimates that there are currently 1,694 Yemini beneficiaries eligible for re-registration. The USCIS announcement may be found [here](#).

Liberian DED Winddown Period Extended

On March 30, the President issued a Memorandum extending the Deferred Enforced Departure (DED) date for Liberians through January 10, 2021. Liberians in the

U.S. have been protected in either TPS or DED status since March 1991 with work authorization. This extension should ease status concerns for Liberians who are able to adjust to permanent resident status.

Congressional Research Service Publishes “Temporary Protected Status: Overview and Current Issues” Updated February 26, 2020

The Congressional Service Research Service (CRS) has published an update of its’ comprehensive overview of TPS. For those interested, the CRS publication is a valuable resource on the history and use of TPS. The publication includes a current table on page 5 of TPS designated countries, and the number of beneficiaries. The study may be found [here](#).

Please let us know if you have any questions, or if you would like copies of any of the materials covered.

And most important, please stay safe and well.

Note (After all, we are lawyers!): The information provided in this Memorandum is not legal advice. Transmission of this information is not intended to create, and receipt by you does not constitute, an attorney-client relationship. Readers must not act upon any information without first seeking advice from a qualified attorney. Neither the publisher, nor any contributor is responsible for any damages resulting from any error, inaccuracy, or omission contained herein.