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MEMORANDUM

To: **International Education Program Administrators**

- 1) GAO Publishes "Report to Congressional Requesters" on "Student and Exchange Visitor Program, DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight"
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1) GAO Publishes “Report to Congressional Requesters” on “Student and Exchange Visitor Program, DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight”

In mid-March GAO released its study on how SEVIS is managing its’ fraud risks. The report contains 85 pages and may be found [here](#).

According to the report’s highlights:

GAO analyzed ICE policies and documentation, including fraud risk guidance and procedures for school certification and recertification; analyzed 2013 through 2017 recertification data; and interviewed officials from five ICE field offices that GAO selected based on their experience investigating program fraud. GAO also interviewed officials from 17 selected schools located near these ICE field offices. This is a public version of a sensitive report that GAO issued in November 2018. Information that DHS deemed sensitive has been omitted.

Among the findings are:

ICE has implemented controls to address fraud risks related to school certification, but long-standing delays in recertifying these schools exacerbate fraud risks

...
they have been unable to meet the 2-year time frame and, as of June 2018, had 3,281 recertification petitions waiting for review. To help manage its queue, ICE has lengthened the period between recertification reviews by extending schools’ certification expiration dates by 180 days, which is inconsistent with its regulation and may allow fraudulent schools to operate longer without detection

Further:

ICE does not provide DSOs with training that addresses fraud risks to the program. In June 2018, ICE officials stated that they plan to develop this fraud training for DSOs, but do not have documented plans or timelines for when it would be completed.

The Guidelines note that GAO recommends:

GAO is making seven recommendations, including that ICE (1) notify schools 180 days prior to the 2-year certification

expiration date, as required, and evaluate whether additional resources for recertification are needed, and (2) develop a plan to implement fraud-specific training for DSOs. ICE concurred with all of GAO's recommendations.

These recommendations, and agency actions are set out at Appendix 1 on pages 55-6.

In sum, GAO has found that SEVP has identified some, but not all Fraud risks but has made no assessment of the actual prevalence, or rate of occurrence of these risks. Actual findings find minimal denial rates for recertifications, and no realistic findings for actual rates of fraud beyond bureaucratic assumptions.

2) Form Updates

Last month we reported on the revision of Form I-539 used to change or extend status, or for F-1 reinstatements. The revised I-539 was to go into effect on March 8, with no grace period. However, due to popular demand, USCIS ultimately provided a two-week grace period until close of business on March 21 for receipt of the old version of the form. The revision requires biometrics and an \$85.00 fee. Assumedly, USCIS was anxious to collect the fees, and fingerprint all applicants for security purposes.

USCIS has also revised Form I-134, the affidavit of support which must be filed with many I-539s (such as change of status to F-1) to prove the availability of funds for support. Beginning on May 6, 2019 USCIS will only accept the I-134 edition dated February 12, 2019, plenty of time to prepare.

3) Contacting USCIS Contact Centers

A February 14, 2019 teleconference with the USCIS Ombudsman on USCIS Applicant Support Centers yielded some useful information:

1) How to check on a case.

If an account has not been set up at my.uscis.gov or if that site is not helpful, the Contact Center approach according to the teleconference minutes is:

USCIS Contact Center (<https://www.uscis.gov/contactcenter>)

The National Customer Service Center's name has been changed to the USCIS Contact Center. The contact information is still the same. In addition to being a source for online "self-help tools", the Contact Center is also responsible for providing live assistance, accepting service

requests, and for some local USCIS offices scheduling Info Pass appointments.

How is a call processed?

1. **IVR System:** When you call the USCIS Contact Center, you will immediately be directed to a voice response system with prompts which allows you to obtain general information such as case status. If you are unable to have your question/issue addressed, you will be transferred to an individual at Tier 1. Tier 1 calls are provided by a contractor service. [i.e., those not paid during a government shutdown]
2. **Tier 1:** The Tier 1 Contact Center Customer Service Representative offer the first level of live assistance and may often provide more case specific information as they have greater access to USCIS systems. Depending on the scenario, the Tier 1 can either chose to open a service request or refer you to Tier 2 if they are unable to resolve the issue.
3. **Tier 2:** Once a call is forwarded to a “Tier 2” Immigration Services Officer (USCIS Officer), the caller enters a “call back queue” and will receive a call back generally within 1-2 hours, but sometimes more. In this scenario, the last resort would be a service request to the operational unit.
4. **Tier 2 Supervisor:** Customers can request to speak with a supervisor at any time. The Tier 2 supervisor has the ability to contact USCIS field offices and NBC through designated points of contact to address immediate action or direct assistance.

Once a service request is opened, stakeholders will receive a SRMT (Service Request Management Tool) number and eventually a response. The Contact Center is the intake mechanism for service requests. Once a request is received, it is handled and responded to by the section or officer that is working on the case.

If an InfoPass appointment is needed, and the local USCIS office (such as NYC) is no longer accepting appointments, the appointment may be scheduled as follows:

How do you schedule an InfoPass appointment?

1. **IVR System:** When an individual call the USCIS Contact Center, they will first be directed to the IVR response system. In order to start the process to schedule an

appointment, you will need to move to a Tier 1 representative.

2. **Tier 1:** Tier 1 Representatives will try to resolve a particular case issue. If they cannot resolve it, and the issue is appropriate for an InfoPass appointment, the representative will transfer the issue to a Tier 2 officer (USCIS Officer).
3. **Tier 2:** Once a stakeholder has been transferred, they will receive a call back generally within 24-28 hours from a Tier 2 officer. [missing the call remains an unresolved issue] If the issue requires an appointment, they will work with the attorney of record to schedule the appointment. The time between a callback and an appointment will generally be four to five business days.

4) State Department Releases FY2019 Visa Denial Statistics

At the end of February, DOS released FY2018 statistics for immigrant and nonimmigrant denials. Among other statistics were those showing that more than 37,000 total immigrant and nonimmigrant visas were denied under the Trump travel ban, and that immigrant public charge denials tripled, although more than half of those public charge denials were overcome.

A few of the nonimmigrant statistics affecting students and exchange visitors follow:

<u>Category</u>	<u>Denial</u>	<u>Overcome</u>
212(a) (4) Public Charge	120	3
212(a)(6)(C)(i) Misrepresentation	16,357	2,901
212 (a)(6)(G) Student Visa Abusers	8	0
212(a)(7)(B) Documentation Requirement For Nonimmigrants	246	187
212 (e) J-1 Foreign Residence Requirement	6	4
214(b) Failure to Establish Entitlement to Nonimmigrant Status	2,771,339	22,482
221(g) Application does not comply with provisions of INA or regulations pursuant thereto	839,146	741,296

501 Iranian citizens studying in certain energy related fields	82	2
2017 Executive Order	21,645	1,309

5) H-1B Cap Season Begins April 1.

On March 19, USCIS posted “USCIS Announces FY2020 H-1B Cap Season Start, Updates, and Changes”. The posting may be found [here](#). The new 20,000 selection process will be in effect, as well as premium processing.

Details are set out in the posting. There is also a new H-1B Data Hub which “... will give the public the ability to calculate approval and denial rates and to review which employers are using the H-1B program”.

6) H-1B Premium Processing Fully Restored

Over the last two months USCIS has been restoring premium processing for H 1B petitions piecemeal. On March 11, the agency announced that on March 12 premium processing would be restored for all H-1B petitions. The announcement may be found [here](#). It includes information on how to request premium processing if the petition or has received an RFE, or if the file was transferred to a Service Center other than where it was originally filed. For specific instructions regarding cap subject filings during the first week of April See the USCIS Premium Processing Memo of March 29, [here](#).

7) USCIS Approves Fewer H-1B Petitions

USCIS recently published charts for approval rates of various long-term employment nonimmigrant visas from FY2015 through the first quarter of FY2019. The results are interesting. Last month we noted the significant lengthening of application processing times as collected and published by AILA.

These nonimmigrant statistics may partially explain the delays. It takes much longer to deny a case than to approve it. In 2015 the total H-1B approval rate was 95.7%, significantly dropping to 84.5% for 2018, and 75.4% for the first quarter of fiscal year 2019. If an RFE was issued in 2015 the approval rate was 83.2%; in 2018 62.3%; and 61.5% in the first quarter of 2019. Although the “L” and “O” categories saw minor drops in approval rates, these were not as dramatic as the H-1B (except, perhaps, for the affected applicants). The statistics do not provide reasons for the decline in approvals, and there have been no changes in law or regulation.

8) TPS Developments

a) South Sudan

On March 8, Homeland Security Secretary Nielsen announced that TPS for South Sudan would be extended for eighteen months through November 2, 2020, with work authorization. The extension is applicable to South Sudanese who have continuously resided in the U.S. since January 25, 2016 and have been continuously physically present since May 3, 2016. It was determined that ongoing conflict warranted allowing the already registered 84 South Sudanese beneficiaries to remain the U.S. The announcement may be found [here](#).

b) Sudan, Nicaragua, Haiti, El Salvador, Liberia

A “Notice” in the *Federal Register* of March 1, 2019 by USCIS continues TPS for citizens of Sudan, Nicaragua, Haiti and El Salvador through January 2, 2020 with employment authorization, pursuant to the preliminary injunction of the U.S. District Court for the Northern District of California in *Ramos v. Nielsen, No18-cv-01554 (N.D. Cal Oct. 3,2018)*. The “Notice” also contains a provision for termination of TPS should the preliminary injunction be reversed. The *Federal Register* Notice may be found [here](#). Liberia’s DED was extended for 12 months through March 30, 2020 as a “wind down period”. The March 28 notice 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.

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