

CSC/NAFSA Liaison Meeting Questions
December 12, 2002

[Jane's comments and additional information that was discussed at the meeting is added below in blue.]

Division I

[At Division I's request, NAFSA will provide a list of authorized petition signers for Division I applications. Information on this list will be posted to the Scholar's List and the Region XII website in the near future.]

1. I am concerned that the CSC is now taking a new stance on the proof we submit related to our Outstanding Researcher/Professor applications. Here is a quote from a recent RFE:

"The record contains several papers written by others which cite the work of the beneficiary. However, citation of the work of others is routine and expected in the scientific community and does not 'automatically' constitute evidence of international recognition or outstanding achievement on the part of the beneficiary. Provide evidence to establish the significance of any published material submitted about the beneficiary's work, as an individual, and how it demonstrates international recognition for outstanding achievement compared to others in the academic field."

My concern is that when a person publishes a scientific article, and that article is then cited for perhaps years from many scientists working in that and related fields around the world in their own scientific articles published in international journals, that this is no longer considered international recognition for outstanding research achievements. In my experience, citation is not in any way automatic.

In addition, we are repeatedly asked to - "Provide evidence to establish the significance and importance of the journals that have published the beneficiary's scholarly articles. Provide evidence to establish if the publication has international circulation; how often it is printed; and the number of copies printed."

We always provide evidence the journals are internationally circulated (through international subscription information), as well as the number of times the publication is printed, and yet we are still asked for this even after it is provided. We have also found that it is against the policies of international journals to provide information about the number of copies printed per issue or per year. I am speaking about top journals.

I hope your meeting with the CSC can discover just what is going on, and why we are being bombarded with such RFE requests, as well as the more and more frequent requests to provide evidence that our Universities and Colleges are able to pay the salary of an individual faculty member.

AAO has repeatedly stated (in their decisions) that citations do not satisfy the requirement for published material about the individual alien. In other words, citations (regardless of volume or content) do not constitute evidence of publishing material about the alien in professional or major trade publications or major media relating to the alien's work.

Ability to Pay Issues:

The CSC is following the regulations on the ability to pay which, according to 204.5 (g)(2), requires that any petition filed by or for an employment based petition which requires an employment offer must be accompanied by evidence that the prospective employer has the ability to pay the proffered wage. An academic institution may submit a letter from its Chief Financial Officer if it has 100 employees or more.

[This should be done on an annual basis.]

2. Approximately what percentage of self sponsored national interest cases are approved? What is a common problem you find in their preparation? Same questions regarding self sponsored extraordinary ability cases.

No such statistic is available to us, and this applies to common problems as well.

[Common problems: forms not filled out properly, should add a cover letter with tabs for the points on the cover letter, if addressing an issue directly quote the regulations, have ability to pay included, submit certified translation of all foreign documents. The application should be organized to the point of being methodical.]

3. If a person applies for a combined processing I-140/485 is an IBIS check begun at the time of the INS receipt of the papers? When is the first IBIS check done and must another one be done later in the green card process? Is there special IBIS training that must occur prior to a person being able to do the check? Can any CAO perform the IBIS check? Can an IIO perform the check?

In the same case, if the person also applies for the advance parole and EAD how are those applications handled? Does each type of application go through it own IBIS check?

IBIS checks are a security issue and we are not authorized to discuss it.

[They are trying to automate the IBIS process. It is somewhat automated now, and has decreased the amount of time it takes compared to when it was first being done. The checks are done at the beginning of processing, and are good for 35 days, so must be done again if processing exceeds that time. They are done on each document, although a good report on one can work for all. If they receive a "hit" on the name, then it takes additional time to clear it.]

Division II

1. I am at an M-1 school and handle many F-1 to M-1 Change of Status applications. Recently, I had a Change of Status application denied from the CSC because the student applied after she had completed her F1 studies. The CSC had in fact received the application prior to 60 days after her last day of class in F1 status. I am wondering if a student now needs to request a Change of Status prior to the end of their F1 coursework and no longer have the 60-day grace period?

No, the 60 day rule has not changed. There may be other details involved with this particular case. We can review the denial once we get the WAC number.

[Students can in fact apply for a change of status during the 60 day grace period.]

2. Lately we've been getting a "request for evidence" for every F-1 to M-1 COS application we have submitted. The list of items is getting longer and many of the things requested have already been submitted with the original application or they are erroneous. For example they ask for an I-134 "Affidavit of Support" when the student's parents are the financial sponsors and are not US citizens or Alien Residents, so an I-134 would not apply. How do we handle these types of requests?

Within the next two weeks we should have new training for I-539s to cover all the new developments including the new SEVIS I-20s. We will be reviewing the common RFEs.

3. Regarding RFEs, I still see requests for the I-134 to be completed even with university based funding. Hasn't that been taken care of on the form?

On other RFE's often the last request on the list is the following:
"Submit original documentation and translation of proof of residence such as owner of property or business in the country to which you plan to return to after completing the course of study. Passport, Driver's License, family registration.... etc... is not acceptable."

Then, what is? I spoke to Ron Johnson in San Jose about "what would be considered documentation". He stated that a driver's license would be ok, so now I am confused by what the CSC is willing to accept. The CSC is still requesting this even after a student had originally stated that they have no intention of staying in the U.S. and do plan to return to their home country after finishing his/her studies. How can we best advise our students to provide documentation to meet this requirement?

We have revised this requirement and, generally speaking, a driver's license from the country of origin will be acceptable. We usually see proof of property and business ownership from some students or their parents.

4. I'm very confused about the processing dates for I-129 H-1B petitions. The JIT report from 10/15/2002 states "we are processing cases with these receipt notice dates": 6/3/2002.

The JIT from 11/05/2002 -- processing 5/31/2002

The JIT from 11/15/2002 -- processing 4/23/2002.

What's happening!?! I thought the "4/23/2002 batch" had been completed in October.

The 6/3/02 date was a data entry error. The new JIT report only allows one slot for H1Bs, that means EOS and COS will be combined into one slot, so the earlier date chosen reflects the processing date for COS cases.

5. Until a few months ago, CSC had a different schedule for new H-1B applications versus extensions/portability cases. Now, I'm assuming there is only one category. (EOS cases used to be slower.) Is there any reason for this new "all-in-one"?

This is the HQ standard report now. The change is the result of standardization of Service Center Processing Time Report for the four Service Centers nationally.

6. If an H-1 change of status is submitted for a J visa applicant who submits the State Dept. recommendation with the petition, and requests that the waiver be granted how is that handled? Since the process takes a long time the applicant might have moved in the interim. If so, how can they notify you of the new address?

When we receive an I-129 COS with a beneficiary who is in J-1 status with the two-year-residency-abroad requirement, we check with Div. V to see if an I-612 waiver has been filed, then we ask them to adjudicate the I-612 before we do anything with our I-129. Change of address should always be reported directly to the INS.

7. Please explain portability in the H1 context. What if the person needs to travel during the pendency of a portability H1 petition submission? What if the person has a valid H1 visa for the previous employer? May the person enter?

Per "American Competitiveness in the Twenty-First Century Act" (Public Law 106-313) beneficiary may start working as soon as the petitioner receives the initial receipt notice of their filing of a valid petition. Beneficiary may travel as long as he/she has a valid H1B visa and the receipt notice of the new petition.

Division IV

1. I am having problems still with Special Student Relief applications. They come back as economic hardship. I have used the code (C) (3) (iii) with Special Student Relief typed next to it, I've used (C)(3)(iv). I have had students be issued OPT and Economic Hardship.

Here are examples: Armando Mardijanto, WAC 02 13559 389, was issued OPT. We sent the card back and asked that it be corrected. They withdrew the OPT but did not issue the correct card! Chendrawan Chandra, WAC02 11552 97, was issued a card for "20 hrs week full time v", I sent it back and it was returned. Special Student Relief was written all over the application.

The confusion seems to be which code to use on the I-765 for Special Student Relief. Please clarify if it is (C) (3) (iii) or (C) (3) (iv). We were originally told it should be the (iv).

Applicants who were granted F-1 status on or before June 10, 1998, will be granted under the (c)(3)(IV) eligibility code when applying for Special Student Relief benefits. If the student was admitted after June 10, 1998, then the student would not meet this criteria. The adjudicating officer would change the eligibility code to (c)(3)(iii). In addition, the student will be authorized 20 hours a week, if classes are in session and full time if the school is not in session including holidays. These benefits are applicable to students from Indonesia, South Korea, Malaysia, Thailand and the Philippines.

2. If an OPT applicant moves while an application is pending adjudication how would you like us to notify you of the new address? What if the new address is outside of the CSC jurisdiction?

The DSO can notify the CSC Student EAD Officer of the change through EMAIL. If the student is no longer residing under our jurisdiction, we will still process the change of address information, in order that we may avoid any delays.

3. I am concerned because one of my students was denied OPT on the basis of the photographs. Her application was received at CSC on January 23, 2002. On June 5, 2002, the CSC requested new photos. She sent the photos, which they received on August 28, 2002. On October 9, 2002, she received a denial of her OPT because they said that "The same type of photographs that was rejected was sent". I did not see the second set of pictures, but she said that they looked just like the one that the Fresno INS put on her interim EAD. Please let us know if rejection of the photos is a valid reason for denial. Her name is Kumiko Suzuki WAC 0209551954, Address:1229 West Barstow, Fresno, CA 93711.

The first photographs were rejected during the pre-scanning process. The second set of photographs submitted by the applicant, were the same photographs submitted the first time. Photograph specification instructions were attached with the RFE.

Our pre-scanning process is performed by the contractor before it goes to the officer for adjudication.

4. How long does it take for a question sent to the Division IV email box to be answered? Sometimes it is several weeks before I hear anything, and other times I do not receive an answer at all. Is more than one person taking care of answering the questions?

The POC will respond as soon as she can. Division IV POC officer is assigned other duties besides the Student POC responsibilities.

[POC stands for Point of Contact or the officer handling EAD matters for students. The average time is 1-2 weeks. If this is a timely matter, and you do not hear from the officer within 2 ½ weeks, send an email to Jane Kalionzes, and she will try to obtain information on your case.]

5. When there is a CSC error on an EAD for an M-1 student, how long is the student eligible to remain in the US waiting for it to be resolved.

If an error is found when the card is received, notify the Student POC immediately. Make a copy of the card, circle the error, write down the correction that needs to be made and enclose the actual EAD card with the letter. I will take corrective action as soon as I receive the card with the error.

[As long as it takes to be resolved –up to 6 months maximum.]