

Questions and Answers for CSC/NAFSA Liaison Meeting
June 26, 2002

The notes that are in brackets are additional points that we discussed at the meeting, but were not a part of the original answers – Jane Kalionzes, CIPP-RR

Division I

1. In I-485 aging out cases, where an Expedite has been requested, how long should we wait for the fingerprint appointment notification before making an inquiry?

“Requesting” an expedite is not necessary as CSC policy is to expedite ALL cases where there is an age-out within one year. If you are within six months of the age-out and have not been scheduled for prints, please fax your request to the DIV. I fax line and write AGE-OUT, and A number(s) on the inquiry.

Division II

1. We are concerned about what has happened to the flow of H-1B's, that are not premium processing cases. A large number of our cases are being held-up, which means people are falling off payroll, families are falling into distress, expensive research is being delayed, faculty, and department chairs are becoming irate. We presume part of the hold up is for security review based on the statements of INS-Washington, but it can't be the only reason. This is really beginning to heat-up at the large, research universities.

Consider these JIT-Report dates for COS to H-1B:

4/12/02 JIT-Report: 2/08

4/26/02 JIT-Report: 2/12

5/10/02 JIT-Report: 2/13

5/24/02 JIT-Report 2/21

Does this mean that processing has stopped or that processing continues and approval notices are being held? What can we do for our people who are going off payroll due to this delay? What is the expectation of processing times for the next several months?

No, processing has not stopped, it's slowed down due to new security requirements. If an individual's case warrants special attention let us know. We are already seeing some improvements in the speed of these security checks and we have been authorized for overtime lately. However, we do continue to experience processing delays.

[Jane's note: Non-profits organizations are now eligible for an expedite of any cases over 75 days. Please send your case information to me, and I will forward it to the appropriate officer at the CSC.]

2. Many of the H-1B change of status applications, that require a waiver of the J two-year home residence requirement, are being approved without the I-612 being issued. There seems to be a huge delay in the issuance of the I-612s. The question is why are the H's being approved without the I-612, and is there a way for the two different CSC divisions that do the approvals to work together to get this issue finally resolved.

We are working with Div. 5 on this issue. Placing I-612s in Div. 2 would further strain resources. These waiver applications effect petitions and applications in all other divisions. It would be helpful if the receipt number for the pending I-612 was provided by petitioners when filing for an H1B classification.

3. Can the CSC please confirm that affidavits of support are not required for I-539 COS applications where the sponsor is outside the US. If it is at an officer's discretion to require an affidavit of support, can you describe the circumstances under which the affidavit may be requested. Can the RFE be modified to reflect this change?

The I-134 is only one of the documents that can be used for the purpose of proof of financial support, many others can be used. No RFE should single out the I-134 as the only proof of financial support, unless the student is a minor. If a student receives one let us know, so we can insure our officers are following the training we have provided them.

[Jane's note: if the RFE lists only the I-134 as the way to provide proof of financial support then send an e mail to Division II giving them the WAC# on the case. If it lists other ways in addition to the I-134 then provide the appropriate documentation.]

Division IV

1. My student, who applied for off campus employment due to economic hardship, recently received an RFE asking for information that refers to the now defunct Pilot Work Program. It states "submit evidence to show that the student has sought employment through a prospective employer who has filed a wage and labor attestation." That program ended in 1996. Could the RFE be revised to delete this information? It has been deleted from the latest revision of the I-538.

RFE will be revised to delete this information.

2. In the CSC notes it said that J-2 work permit applicants must submit marriage/birth certificates or any other documents establishing relationship to the J-1 (see below). This seems odd since there is no regulatory requirement for this. It hasn't been asked for in the past, and it seems entirely unnecessary since the J-2 had to prove relationship to DOS to get their visa in the first place (as well as screening by schools). It seems to be overly burdensome and unnecessary. And even if they do insist on it, will copies be sufficient

(getting marriage certificate originals that student/scholars are willing to give up to INS will be especially difficult)?

We understand that the relationship has been established to the DOS, however we leave it up to the adjudicating officer's discretion to ask for information necessary to make a correct decision.

[Jane's note: There is concern that the J-1 might not be in status. Copies of the spouse's visa, along with the principal J-1's valid IAP-66 would be accepted.]

3. Is it effective immediately, that full time study in H (or other statuses that permit study) can no longer count towards the 9 months required prior to OPT/CPT? If true, this is a big change that will affect a significant number of our students, as we have a regular flow of H to F-1 changes, due to our proximity to Silicon Valley. It was understood that INS headquarters stated that the 1990 wire allowing the time to count was to be upheld. Is this correct?

According to 8CFR 214.2(f) dated 4/90, an alien who attended school in lawful non-immigrant status prior to changing status to F-1, is permitted to count the time spent on campus towards the nine-month-in-status requirement for practical training.

[Jane's note: This is a reversal back to the procedure we have used for several years and takes effect immediately.]

4. Do you have any idea how long it is taking for EAD errors to be corrected? We've been reluctant to have students send their EAD, for fear they would not see a replacement until after their OPT period ended.

If it is established that it's our error, once notified, we will expedite and walk it through. So, a new card will be produced as soon as possible. However, the card with the error should be sent to the attention of Patty Rafael before a new card can be issued. We cannot issue a duplicate card when the old card is still out.

[Jane's note: Detailed information on the procedures to correct an EAD is on the Region XII website.]

5. For cancellation of OPT, can NAFSA's use the procedures that were developed several years ago through the CSC/NAFSA liaison? Copies of those procedures were handed out at our last meeting.

Yes, we still follow the same procedure.

[Jane's note: Detailed information on the cancellation procedures will be put up on the Region XII website by the end of the month.]

6. We have been told that EAD's are supposed to have a turnaround time of 75 days. When will the CSC be able to meet this timeline?

Once received, student applications are held on the 30-days shelf. At least once a week, the division will order all files on that shelf and assign to the officers for adjudication. There have been instances where as the contractor has placed some of these cases on the 90-days shelf in error, we are trying to correct this situation and identify such cases.

[Jane's note: It was determined at the meeting that it has become a Division IV priority that EAD's would be below 90 days as soon as possible.]

Division V

1. Is it possible to add the I-612 applications to the JIT report?

The I-612 application is not listed on the JIT report because they are processed within 30 days.

2. Applicants for the waiver of the J two-year home residence requirement are receiving a copy of the recommendation from DOS, but then are not receiving the I-612 from the CSC. Many of these people are H-1B applicants who need the I-612 for their application to be approved. In cases where they are approved anyway without the I-612, people are having problems when they travel. Consulates now will not entertain acceptance of an H-1B visa application without the I-612 approval notice accompanying the H-1B change of status approval. The DOS recommendation letter is not accepted in lieu of the I-612 approval notice. When can we expect to see the I-612 approval notices? Is it possible to work together with Division II to coordinate these efforts?

An inquiry regarding I-612 application should be faxed to (949) 389-3485, attention to I-612 officers and 2nd inquiry should be faxed to (949) 389-3475, DIV V supervisor. We have 5 officers assigned to these cases. CSC is currently developing a procedure with the Department of State to resolve this issue. The DOS "No Objection" letter is not acceptable as replacement of the I-612 approval notice. Division V is working closely with DIV II on these types of cases.

General Questions

1. Could you give us some general information about the Security Check procedures currently in place. What federal agencies and what lookout systems are part of the check? Any other information you can provide is appreciated.

These are checks that are now required at the time of adjudication as opposed to a screening process at the time of filing. We are using the Inter-agency Border Information System (IBIS) which queries several other agencies systems.

2..The recent newspaper article about shredding of application documents at the CA Service Center has many advisors concerned about whether their applications are affected. Is it possible to give us a timeframe of when this happened so we can get an idea which applications might have been affected? Were there any specific application types that were not affected? What is the procedure to re-file the application, the check has not been cashed, and we feel it may have been shredded? What if it is past the filing deadline?

This incident is still under investigation and we don't have any specific dates. However, since May 10, 2002, we have been re-sending any RFEs that have not been responded to and could otherwise have been denied for abandonment. Let us know if a response to an RFE has been sent and there has been an unusual delay in adjudicating of the case.

3.Is the current increase in RFEs related to the "Zero Tolerance" memo from INS HQ? Could you please explain the CSC's current practice in this regard.

The number of RFEs is closely related to changes in policies that from time to time leave officers with few options but to send an RFE. The recent implementation of security checks as resulted in an increase in RFEs to obtain information needed to perform the security checks. Also, there is a greater focus on COS applications for F-1 students on national level.