

CSC/NAFSA Liaison Meeting Questions
September 25, 2002

My notes in brackets are additional information that was discussed at the meeting but were not part of the original written answers – Jane Kalionzes, CIPP-RR

Division I

1. I submitted an I-140, Outstanding professor, EB-1. When I read the JIT report it has a petition type of I-140, E1-2. Does that cover the EB-1 category? This is the first I-140 I've submitted, the receipt letter dated June 21, 2002 and says it takes 30 to 60 days to process and the customer service phone says 158-60 days. The later seems closer to the JIT report, if the I-140 E1-2 is applicable to this application. Am I on the right track?

Yes.

2. Historically, colleges and universities have not had to submit evidence of the ability to pay when filing a 140 petition. We acknowledge the regulations require evidence of the ability to pay be submitted with the I-140. However, all four Service Centers have never required a letter from the finance officer on campus, or an audited financial report. It has been an acknowledged fact by the INS that the America's colleges and universities could pay the salary of a faculty member. There is zero history of colleges and universities not being able to pay faculty salaries. In the last three months all of the California State Universities and long established and wealthy private colleges have received RFE's requesting evidence of the ability to pay. Some, but not all, of these RFE's even ask for the tax return Schedules.

NAFSA would request that Division 1 return to the long established policy of not asking colleges and universities for either the letter or audited tax return. NAFSA believes that it is appropriate for CSC to take "administrative notice" of the fact that the schools can afford the salary and therefore discontinue its policy of issuing an RFE in cases such as the above.

At this time it is necessary to Continue submitting Ability To Pay documentation.

3. Division 1 is responsible for both the 140 and 485 adjudications. When the 140 and 485 are submitted concurrently will the same CAO adjudicate both applications? If the forms are submitted concurrently when will the medical and fingerprints be scheduled?

The medical should be submitted at time of filing. Scheduling of fingerprint appointments will be done respective of the number of appointments in the national scheduler and factoring in CSC processing times.

4. As of 7/31/02, concurrent filing of I-140s together with the AOS docs is permitted when there is availability of an immigrant visa at the time of concurrent filing. 1) Under concurrent filing, when should the AOS applicant expect to receive notification re the fingerprint appt? 2) If subsequent to filing and at the time of processing the I-140, an immigrant visa is no longer immediately available, should the applicant expect--at the least--approval of the I-140 petition? And then, should the applicant expect that his/her AOS docs will be put on hold until an immigrant visa becomes available? 3) Subsequent to filing and at the time of processing the I-140, an immigrant visa number is immediately available--will the I-140 and AOS be approved at the same time for the applicant? Or will the I-140 be approved first with notification to the applicant that AOS is still pending?

1.) see answer above 2) standard JIT times and yes, if no IV is available, we will NOT be able to adjudicate the I-485 3) in most cases, the I-140 and I-485 will be adjudicated separately.

Division II

[Jane's note: Division II priorities continue as follows: L's, Premium Processing, I-539's. We are still able to utilize the expedite procedure for H's pending over 75 days.]

1. I have one topic for the meeting: RFE's for change of status applications, namely F-2 to F-1. I would like to get firm clarification if CSC really wants the I-134 -- if not, maybe that item should not be used from their RFE menu. It is not always clear that the officer wants either the I-134 OR the other means of support.

The I-134 can not be eliminated from the menu as it is used for some applications and will remain as one of the options to prove financial support. We will remind our officers to use "or" on the topic of support.

2. There are some items on the RFE list that need discussion. Is it possible to develop some kind of agreement with CSC about what is "reasonably" required, so that the FSA's have a guide. (After all, RFE's are more work for us and for them!) Here are some examples that we are concerned about:

RFE's are used when an officer is not convinced that the COS applicant has established eligibility for the status requested. What may seem unreasonable to an FSA may be deemed necessary by the officer. Most RFE's are reviewed by a supervisor before mailing. At times we may have to agree to disagree on what is reasonable.

“Submit original document and translation of proof of residence in the country to which you plan to return to after completing studies” Many students are young people who do not have such documents, or their countries do not provide this information. Why is this suddenly being put on RFEs?

The law requires F-1 students to have a residence abroad which they don't intend to abandon. So, this RFE is to ensure that they were living in the country of their nationality and intend to return to it. The required documents can be from the parents, such as family registrations, etc. which would established the same criteria for the student. Needless to say, non-English documents need to be translated.

[Jane's note: Currently it is not required to submit proof of residence in the home country as part of the original application, however it is recommended. The CSC would like a clear statement from the student that they plan to return home after completion of their degree program. This statement may help avoid an RFE for this requirement. It could also help for the student to state how this degree is useful in their home country, and how they plan to use it.]

“Your passport must be valid for a period of six months beyond your requested stay. Provide evidence to show that your passport is valid for at least six months beyond your requested stay.” As students have “duration of status” and I-20 forms that are valid for many years, it is not always possible to have their passport valid that far into the future. Also, there are passport agreements with certain countries that allow passports to be considered valid six months past the date of expiration. What do you suggest?

As per regulations the passport of an applicant of a change of status must be valid for at least six months beyond the intended date of departure, unless they are nationals of a country that is on the list of countries that are exempt.

“An explanation as to why your spouse is attending school in University of California, Riverside, and your residence address is in Riverside, while you will be attending school in San Diego State University.” This question seems unusual, and not really to pertain to the change of status application.

Of course, the specifics of the case would be needed to properly analyze the RFE, but at times the Service can question the validity and viability of an application to attend a school that is not within the commuting distance of the student's residence.

“Submit original and translation of diploma and transcripts from high school and/or college in your country.” The concern is the officer's training in evaluating other country's educational documents, and the need for the CSC to check these documents. Colleges and universities have trained evaluators that check these documents as part of the admissions process before they issue an I-20 form. Do they need to be checked again?

For the most part, this RFE concerns students who apply for vocational or ESL schools and may have taken the same courses previously in their country.

3. Many times RFE's ask for information that has already been submitted. Is it possible for the officers to double check the file before sending the RFE?

We will provide more training on this to the officers.

Division IV

[Jane's note: It was discussed at the meeting whether the DSO must endorse the I-20 for OPT within a specific timeframe. It has been determined that it must be within 30 days of filing for the EAD. This is written on page 2 of the instructions for the I-765.

It was verified once again that the OPT application period is 120 days before the date of completion until 60 days after the date of completion.

1. It seems that EAD processing times for optional practical training are speeding up, and students who applied from beginning of June and after are receiving their cards in about 90 days. However, there seems to still be applications from before June that are still pending. How is that possible?

The current JIT date is mid June, 2002. If there are cases pending prior to June, these could be either RFE'd cases or assigned to officers who have not been able to work on them yet.

2.Regarding RFE's, there is a new request on the most recent RFE's "Submit original document and translation of proof of residence in the country to which you plan to return to after completing studies." Many students are young people who do not have such documents, or their countries do not provide this information. Why is this now being put on RFEs?

This appears to be an I-539 issue (see Div. II response.) In adjudicating the I-765's, the officers concern is to verify current student status and that all requirements are met for the requested classification or status. This request for evidence is not common nor used by Div. IV officers adjudicating I-765.

[Jane's note: This was done by a new officer who has been corrected]

3. We are noticing RFE's for applications for Economic Hardship. Are there some specific guidelines you would like us to follow so we can provide the required information with the original application?

Yes, there are some specific guidelines that would be very helpful to the adjudicating officers when adjudicating these cases. These guidelines will be distributed during the meeting.

[Jane's note: The guidelines were given orally as follows: they need more than just a letter from the student, they need actual documentation and evidence, a detailed explanation of the financial burden by the sponsor, a detailed budget. They are looking

for evidence that tells a well-documented story or explanation of the unforeseen circumstances.

They would also like pages 3 & 4 of all I-20's from all schools. Also, Advisors need to tell their students the EAD will only be valid to the end of the student's program.

There is good information in the NAFSA manual about preparing these types of applications.]

General Questions

1. We are now making available the AR-11 form so that our students can report their address to the INS in Washington, DC as instructed.

We continue to use the SCHOOL address on I-765 applications (student's name c/o our office) which we have done for several years because we had so many problems with lost/returned cards due to students frequent moves....Using the school address has definitely assisted in better receipt of cards and we can also monitor the processing time much better this way...

Does the AR-11 form alter correspondence addresses across the board for INS? In other words, will the addresses c/o of our office on the I-765 applications be honored if the student files an AR-11 during processing with another address?

If the AR-11 does impact all INS correspondence, what will happen to the I-765 application if a student moves to another state not handled by the CALIF SService Center. Will the application be forwarded for processing to the correct service center, returned to the student, or what? Has INS thought about this? It seems as if it may turn out to be a mess!

Our policy on change of address has not changed. If the school that the student is attending is under the jurisdiction of another service center, then the case will be forwarded to them.

[Jane's notes:

Advisor's may notice that there is an A number on student EAD cards. (The A number is the number used to identify persons who have an INS file). This is not a real A number, but a fictitious number that is used to generate the card. It should not be put on other applications that ask for an A number.

SEVIS and the CSC – The CSC has not received any instructions on SEVIS yet from Headquarters. There is speculation that they will not be on SEVIS until late next year.]