



USCIS: Current Issues Session NAFSA Annual Conference 2023 Questions and Answers May 31, 2023

Background

U.S. Citizenship and Immigration Services participated at the NAFSA Annual Conference on May 31, 2023.

Q1. Would you please share recent developments and those on the horizon at USCIS that might affect our community?

A1. On February 22, 2023, we issued policy guidance in the [USCIS Policy Manual](#) to clarify the validity period of employment authorization for F-1 nonimmigrant students experiencing severe economic hardship due to emergent circumstances (also known as special student relief (SSR)) who are work authorized under the SSR provisions of 8 CFR.

The update clarifies that in cases of severe economic hardship due to emergent circumstances, we may grant off-campus SSR employment authorization to an F-1 nonimmigrant student for the duration of the Federal Register notice validity period. This employment authorization may not extend past the student's academic program end date. This update notes that we may issue employment authorization documents for the duration of the Federal Register notice, which is typically an 18-month validity period, as permitted by the relevant SSR Federal Register notice.

On May 5th, the U.S. Department of Homeland Security announced that the U.S. Government will offer certain Afghan nationals paroled into the United States the option to apply online for a new period of parole, or re-parole, as well as apply for employment authorization online, through a new streamlined process.

We will consider these applicants for re-parole on a case-by-case basis.

If we grant re-parole, Afghan nationals will receive an additional two-year period of parole in the United States, and also be eligible for employment authorization for two years. The new process to apply will be available in June, and we will host a national stakeholder engagement to answer any questions about the effort.

We would like to remind Institutions of Higher Education (IHEs) about special provisions and SAVE procedures for verifying Afghan and Ukrainian Parolees.

The [SAVE Fact Sheet for Afghan Arrivals](#) provides information about federal laws under which certain Afghan parolees "shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of [the Immigration and Nationality Act] (8 U.S.C. § 1157)" and the duration of that eligibility. The fact sheet also provides information about documentary evidence and SAVE verification of this parole.



[Public Law 117-128](#) contains a similar provision for certain Ukrainian parolees and the SAVE [Parole Under Uniting for Ukraine](#) announcement provides documentation and SAVE verification information about these Ukrainian parolees.

The Department of Education Dear Colleague Letter, GEN-23-04, [Eligible Noncitizen Update – Afghan Arrivals](#), and the [Federal Student Aid \(FSA\) Handbook \(Volume 1, Chapter 2\)](#) provide additional guidance regarding Afghan and Ukrainian parolee eligibility for Federal Student Aid.

Please use these resources and submit any questions about:

- Eligibility for FSA - Aaron Washington in the Office of Postsecondary Education at aaron.washington@ed.gov or applicationsystemdivision@ed.gov.
- Documentation or SAVE – Your SAVE Agency Relationship Manager or SAVE.Help@uscis.dhs.gov.

Q2. Are there any updates that USCIS can provide on the notice of proposed rulemaking for fee increases, such as an expected timeline for implementation?

A2. The Notice of Proposed Rulemaking entitled “USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements” published in the *Federal Register* on January 4, 2023 and allowed for comments to be submitted from the public through March 13, 2023. We received comments from 7,973 individuals and organizations, many of which addressed multiple aspects of the proposed regulation. We have been reviewing the comments and will ensure that any responsive changes are incorporated in the Final Rule. We did not propose to change fee waiver eligibility based on an inability to pay, but to maintain the current criteria for waiving fees for certain forms that we have used since 2011. We expect a final rule to be published near the end of this year, with the new fees taking effect 60 days after publication. Because the comment period has closed and the final rule is in its deliberative stages, we will not be able to answer any questions or provide additional information about it.

Q3: In what case would you require that the applicant pursue an I-290B Motion to Reopen versus having their DSO pursue a PSC review of the denial?

A3. Any inquiries received from the Designated School Official (DSO) about an allegedly erroneous decision are forwarded to the Potomac Service Center (PSC) student mailbox, which is managed by our I-765 Card Correction Team. The Card Correction Team then determines whether a service center error exists. Once the team reaches a decision, they respond to the DSO through the PSC mailbox and either inform the DSO that the case has been reopened for review or advise the DSO to have the student/applicant file Form I-290B, Notice of Appeal or Motion, within 30 calendar days of the date of the decision. A student may file an I-290B motion to reopen when a case has been denied and there are new facts or evidence or a change in circumstances that may support an approval.

Q4. Online I-765 - DSOs report two common student errors in the “Form I-20” Evidence section of the new online Form I-765. Students generally realize their mistake while their OPT application is still pending (before receiving either a denial or an RFE), and then ask their DSO for advice on next steps. What course of action should students take if they have already submitted their application?



A4. If the Form I-765 for Optional Practical Training is filed before the DSO enters their recommendation in SEVIS and there is no valid I-20 at the time of filing, the application will be denied. In this scenario, the student MUST still file their second Form I-765 timely. The first Form I-765 will be denied due to the lack of the DSO recommendation. If the second Form I-765 is denied, the DSO can use the DSO mailbox to request a review. All regulatory deadlines still apply (for example, for post-completion OPT, 30 days from the date the DSO enters their recommendation for OPT into the student's SEVIS record and no later than 60 days from the program end date; students can file up to 90 days before the program end date). Applicants can submit documents using their USCIS online account at any time before USCIS makes a final decision on their case. USCIS would likely request evidence of a valid I-20 if the applicant did not submit a proper I-20 at the time of filing.

Q5. What is the process for requesting a withdrawal of an I-765 filed online, and what are current processing times for withdrawal requests?

A5. An applicant may withdraw a case any time before a decision is made. To submit a withdrawal, the applicant may upload a signed letter online through MyUSCIS, which would create a Service Request Management Tool (SRMT); upload a letter requesting withdrawal through the unsolicited evidence section of their online account; or mail a letter to the USCIS Lockbox requesting a withdrawal. Once we receive a withdrawal in one of the above-listed ways, we add the withdrawal to the record, but we do not differentiate cases with pending withdrawals from cases without pending withdrawals. Therefore, there are no specific times to process a withdrawal; cases are adjudicated on a first in, first out basis. The current processing time for I-765s filed by qualified F-1 academic students under the (c)(3) category is four weeks depending on the complexity of the case and whether all evidence is received.

Q6: In some cases, a student might realize a mistake rendering their OPT application deniable and wish to withdraw that OPT application and refile a corrected I-765 as soon as possible. In this case, can a withdrawal be expedited?

A6. A case may be withdrawn at any time before a final decision is made. The PSC tries to expedite withdrawals. In addition, the External Affairs - Congressional Liaison Department assigns those cases to the Card Correction Team when they receive withdrawal requests via SRMT.

Q7. OPT applicants who have filed online and received RFEs are directed to upload the requested evidence. These RFEs also mention mailing the evidence to the USCIS on the following page. This creates confusion among students who, based on the content of the RFE, are under the impression that they must both upload and mail the requested documents.

- In cases like these, should the RFE response documentation be uploaded to the myUSCIS account, or should the documentation be physically mailed to USCIS?
- If the documentation should be uploaded in myUSCIS, should applicants use the "unsolicited evidence" section or is there an upload section designated specifically for RFE responses?

A7. When an applicant submits a form online with USCIS and receives a Request for Evidence (RFE), they have the option of responding by mail or online. However, we strongly encourage the applicant to provide the requested evidence electronically through their USCIS online account because it is more



efficient for them and for USCIS. The applicant should not mail their response to USCIS if they are responding online. In other words, they should not respond twice. They should only respond once by paper or once through the online account.

When USCIS issues an RFE, there is an RFE portal in the online account that opens the day USCIS issues the RFE and closes the day the RFE response is due, or the day the applicant hits "Submit" in their online account, whichever comes first. Applicants can access this portal a variety of ways in their online account.

Please keep the following in mind when responding to an RFE online:

- Applicants have only one opportunity to respond to an RFE through the online account. We do not allow partial responses, so they should be prepared to upload all their documents and submit at one time.
- The online account currently allows a maximum of five documents total to respond to an RFE.
- We ask applicants to give their documents simple, descriptive names like "Passport" or "I-20" instead of using the automated scan name.

The online account can accept up to five documents total in response to an RFE. If an applicant needs to submit more than five documents to fully respond to an RFE, they may use the "Unsolicited Evidence" tool to upload the additional documents at the same time as their response to the RFE. Applicants should always give their documents clear and descriptive names and not use the default scan name. This helps applicants keep track of what they have uploaded and helps USCIS officers when reviewing evidence.

Once the "RFE response portal" closes, the applicant will not be able to submit a timely RFE. However, if the applicant still chooses to submit evidence, the applicant can use the "Unsolicited Evidence" tool. Documents uploaded as unsolicited evidence will be labeled "Unsolicited Evidence." Also note, uploading evidence as unsolicited does not cure an untimely RFE response.

Thank you for raising the issue of confusing RFE language. USCIS will look into making responsive revisions.

Q8. Over the last six months or so, a significant number of STEM OPT applicants who have filed their I-765 online report that the mailing address they have provided on their STEM OPT ((c)(3)(C)) I-765 is not being properly utilized for USCIS correspondences including receipt notice, approval notice, RFEs, EADs. Instead, these applicants report that USCIS has mailed these correspondences to the mailing address the applicant provided on a previously filed OPT application (Post-Completion OPT, (c)(3)(B)).

- **Is USCIS aware of this issue? If so, have steps been taken to resolve it?**
- **In these instances, the applicants often experience significant difficulty retrieving their EADs. What exact steps should applicants in this situation take to obtain their EADs after USCIS has mailed them to the incorrect location?**

A8. USCIS is aware of the issue and regrets the inconvenience it has caused. When someone completes a form online and enters an address that is different than the address in their account profile, the system is designed to update the account profile with the newly entered address. Thanks to your helpful



feedback, USCIS discovered that notices and EADs are being mailed to the address in the account profile, despite the applicant having entered a different address on the online form.

USCIS is working to correct this issue. In the interim, students can ensure that their notices and documents are mailed to their preferred address by updating the mailing address in their USCIS online account profile with their preferred address. It takes just a few minutes and is an effective interim corrective measure.

Q9. What would trigger USCIS to send an RFE about STEM eligibility and CIP code alignment, especially if the major listed on the I-20 is on the STEM-eligible list? What type of evidence is USCIS looking for in cases where an RFE is sent because the degree/major name on university documents does not match the CIP code major name exactly?

A9. USCIS may send an RFE about STEM eligibility when the major listed on the I-20 is on the STEM-eligible list, but the degree obtained is not a STEM degree. USCIS is looking for evidence of a STEM degree in a field that is currently included on DHS's STEM Designated Program List.

Q10. Given that there is no requirement in the STEM OPT regulations or I-765 instructions that the I-983 is to be provided with the STEM OPT filing, what might prompt USCIS to request the I-983 in order to adjudicate the STEM OPT application?

A10. Generally, USCIS does not require a copy of the students' Form I-983; however, USCIS retains the right to request the Form I-983 when the officer believes it may be relevant to the case decision or has reason to question any of the information provided in the Form I-765.

Q11. What is the process that applicants should follow if their EAD contains a USCIS error?

A11. To request a replacement EAD due to USCIS error, see the "Replace an EAD" webpage on USCIS' website at <https://www.uscis.gov/green-card/green-card-processes-and-procedures/employment-authorization-document>.

Q12. What are the steps of the correction process?

A12. If an applicant's EAD contains incorrect information **because of a USCIS error**, USCIS will make the appropriate correction at no additional cost to the applicant. In these cases, the applicant does not need to submit a new Form I-765 or a filing fee. Instead, the applicant must submit:

- The original card containing the error,
- A detailed explanation of the card error, and
- Supporting documentation on the correct information.

The applicant should submit this information to the [service center](#) or [National Benefit Center](#) that approved their latest Form I-765.

Q13. Is there any way for applicants to be able to monitor the progress of their EAD correction, or to have a sense of where they are in the process?



A13. There are no resources for an applicant to monitor the progress of their replacement EAD. However, in most cases, USCIS will prioritize cases involving a USCIS error.

Q14. Expansion of Premium Processing to F-1 OPT and COS to F and J - In a January 12, 2023 notice, U.S. Citizenship and Immigration Services (USCIS) announced a timeline for its plan to expand the fee-based premium processing program to F-1 optional practical training (OPT) applications and applications for change of status (COS) to F student and J exchange visitor status, stating: "We anticipate expanding premium processing for certain student and exchange visitors with pending Form I-539 applications in May [2023] and certain student and exchange visitors who are filing initial Form I-539 applications in June [2023]. We will make an announcement when we are ready to implement these phases." Can USCIS provide any updates on this?

A14. USCIS is still working towards deployment of premium processing for applicants requesting a change of status to F-1, M-1 or J-1 student status. USCIS expects that the ability to file for an upgrade to premium processing will be available by mid-June 2023 and that initial filings for premium processing will be available by the end of June 2023.

Q15. What will USCIS do as Premium Processing is implemented for I-765s to ensure that all I-765 adjudications remain within reasonable processing times?

A15. USCIS has allocated staffing with the use of data collection and projections to ensure there is enough staffing for both premium and non-premium cases.

Q16. Is USCIS currently considering premium Processing for Reinstatement I-539 filings. this as a form type eligible for Premium Processing? Any ideas on the possible timeline for this addition?

A16. Although Premium Processing for Form I-539 applications requesting reinstatement to student status is not foreclosed by statute, there is not an immediate plan to expand Premium Processing to include such reinstatement applications. USCIS will continue to expand Premium Processing to more categories of I-765 and I-539 as directed by Congress.

Q17. USCIS has previously stated that it would consider including Reinstatement I-539s in the Premium Processing expansion, though no plans to do so have been communicated at this time. Can you discuss what steps you are taking to reduce the processing time specifically for Reinstatement I-539s or to mitigate the negative impacts?

A17. Since the COVID-19 pandemic, the Service Centers have continued to work down cases from an extensive backlog and have made significant progress. The Service Centers process cases in the order they were received whenever possible.



Q18. NAFSA has received reports that EADs issued under SSR notices generally contain the standard off-campus employment notation, “20 hours week F/T vaca,” even though the 20 hour per week restriction while school is in session is expressly waived under the SSR notices.

- **Can USCIS confirm that this is an error?**
- **Should students who receive SSR EADs with this notation take any steps to remedy the error?**
- **Can USCIS remove that notation when adjudicating SSR EAD applications and producing SSR EADs?**

A18. USCIS acknowledges the system error applying the incorrect terms and conditions to SSR EAD cards. USCIS did not have the functionality to annotate cards consistent with SSR waivers. USCIS did address this eligibility category and has only recently completed development in ELIS for SSR cards to have the annotation indicate “20 hrs week f/t.” The EAD cards will now indicate the correct terms and conditions.

Q19. Previously, SEVIS has only permitted SSR recommendations up to a year in length, and continually eligible students would need to apply for SSR annually. Has USCIS worked with SEVP to update SEVIS and permit the SSR employment recommendation to be issued for longer than one year at a time? If not, how should DSOs make the intended SSR duration clear for USCIS on the student’s SSR recommendation I-20?

A19. USCIS has worked with SEVP, and, in response, updated the [USCIS Policy Manual](#) in February 2023 to reflect the validity period for the SSR as noted by the Federal Register Notices.

Q20. Would USCIS confirm that, in accordance with the SSR notice, an F-1 student must submit only the following as initial evidence when filing Form I-765 for an EAD for off-campus employment authorization under a Special Student Relief (SSR) notice:

- **A completed Form I-765;**
- **The required fee or properly documented fee waiver request, as defined in 8 CFR 103.7(c); and**
- **A signed and dated copy of the student’s Form I-20 with the appropriate DSO recommendation (which, according to the SSR notice, constitutes the DSO’s certification of the student’s eligibility for the employment benefit under the notice).**

A20. Generally, USCIS does not require additional initial evidence. However, USCIS may request additional evidence if eligibility for SSR is not established through submission of the I-20 or review of the student’s SEVIS record.

Q21. Can USCIS confirm that applicants for Special Student Relief are not required to include proof of eligibility to USCIS along with their I-765 when applying for SSR, since the Federal Register notices instruct only to submit that evidence to the DSO, who evaluates it before making an informed recommendation in SEVIS?

A21. Generally, USCIS does not require additional initial evidence. However, USCIS may request additional evidence if eligibility for SSR is not established through submission of the I-20 or review of the student’s SEVIS record.



Q22. Are there any plans to introduce an online I-765 option for SSR and/or Severe Economic Hardship applications?

A22. USCIS does not currently have any plans to introduce an online option for SSR or Severe Economic Hardship applications. We appreciate this suggestion and will consider it for future enhancements.

Q23. Can USCIS discuss how it is implementing the February 2023 changes to the SEVP transfer FAQs, which describe revised procedures on transferring a SEVIS record while an application for F-1 reinstatement is pending with USCIS?

A23. If a student continues to be enrolled in a full course of study, and USCIS has evidence of the new I-20 from the transfer-in school, as well as a letter from the DSO indicating that they support the transfer to the new school, students may transfer to the new school while the reinstatement request is pending. USCIS will approve the reinstatement request if the applicant is otherwise eligible. However, if the student is no longer enrolled in a full course of study at the transfer-out school, USCIS will only approve the reinstatement request (if otherwise eligible) for reinstatement to the original school. Only after the reinstatement request is adjudicated can the student make a request to transfer to a new school.

USCIS has made significant strides in reducing the backlog of reinstatement cases, and processing delays should continue to drop in frequency and duration.

Q24. Eligibility for OPT - Due to lengthy reinstatement processing times and changes to adjudication standards, students who are finishing an academic program with a reinstatement application pending are unable to apply for OPT unless the reinstatement is approved within the student's 60-day grace period. Previously, USCIS would expedite reinstatement applications as the student was nearing the end of their final semester when requested by the DSO, in order to allow the student to apply for OPT; however, this practice was discontinued several years ago. Would USCIS consider reinstating this practice?

A24. Requests for expedited processing are considered on a case-by-case basis and must meet eligibility criteria. For further information, please visit USCIS' website.

Q25. Could you take us behind the scenes to help us better understand the variation in forms' processing times?

- What factors affect USCIS's' operational decisions that may result in a 3-month processing time for one form versus a 23-month processing time for another?
- How are processing time goals identified and prioritized?

A25: In March 2022, USCIS announced new actions to reduce our pending caseload by establishing new internal cycle time goals as seen here: <https://egov.uscis.gov/processing-times/reducing-processing-backlogs>.

While we strive to process cases in the order in which they are received, various factors can contribute to different processing times at the Service Centers. Each center works specific classifications of Form I-539, as well as other forms, and must assign available resources according to priorities. In addition,



certain classifications of I-539 may require more types of evidence, resulting in a higher percentage of issuance of Requests for Evidence, which can affect processing times. We have shifted some workloads between Service Centers to help bring processing times more into alignment and will continue to evaluate other ways to improve our overall processing times.

Q26: Change of Status: We are thrilled to see more and more recently submitted change of status applications being processed significantly more quickly than in years past. At the same time, however, we are still working with students and scholars whose change of status cases have been taking months and sometimes over a year to be adjudicated. Can you share how USCIS prioritizes I-539 change of status filings?

A26: Currently, USCIS is prioritizing the remaining F-1 backlog, including many related B extension of stay requests. However, White House directives, newly-issued policies, and requirements imposed as a result of litigation, among other things, must all be part of the calculations to determine how the workload must be prioritized.

Q27: Digital Forms I-797 - In what cases could a digital receipt notice or approval notice (PDF versions uploaded into the applicant's myUSCIS account) be considered an original document for I-9 purposes?

A27: Digital documents are not acceptable Form I-9 documents. In general, USCIS also mails a paper notice to the applicant and/or attorney or accredited representative of record for most form types. For the I-539, USCIS does not mail paper notices. In such instances, the applicant can print the PDF version of his or her approval notice with the tear-off Form I-94 from his or her online account.

Q28: Flexibilities - While the COVID flexibility in complying with requirements related to Form I-9 have been greatly appreciated, we understand that this flexibility is currently extended only until July 31, 2023. In August 2022, DHS published a [notice of proposed rulemaking](#) to create a framework that would allow alternatives to current I-9 requirements. Can you provide a general update on that NPRM and possible timeline for implementation of a final rule?

A28: DHS is currently reviewing public comments and plans to issue a final rule later this year.

Q 29: Revocation Notices - For students on OPT who were selected in the H-1B lottery and have an H-1B petition approved before October 1, but then either leave or are dismissed from that position, revocations of the approved H-1B do not feed into SEVIS, which results in the SEVIS record being auto-completed on October 1.

- The SEVIS Help Desk will not return these records to Active without a copy of the USCIS revocation notice. However, revocation notices generally take 6 - 8 weeks to process and are sent via regular mail to the employer. The student (former employee) is not always reliably able to get a copy of the revocation notice prior to October 1, perhaps as a result of an uncooperative former employer, a notice not received in the mail, or other circumstances beyond the student's control.
- The consequences of not receiving the revocation notice quickly can have a very large impact on the student: the current process has resulted in students having to forego



the remainder of approved OPT/STEM OPT if the SEVIS Help Desk will not return the record to Active when the student is unable to obtain a copy of the revocation notice or if it was not received by the employer. In cases where the student is returning to a new degree program, it has resulted in their having to leave the US and reenter on a new I-20 to regain F-1 status.

Would USCIS consider other options to deliver revocation notices on a reliable basis and/or consider making a copy available to the beneficiary (student)?

A29: The student, as the beneficiary of the H-1B petition, does not have administrative standing on an I-129 petition. Because the petitioner has administrative standing, USCIS notices pertaining to an H-1B petition are only sent to the petitioning entity and/or the petitioner's attorney of record. Under the existing regulations, USCIS may not send a copy of the H-1B revocation notice to the beneficiary of the petition.

Q30: Premium Processing of I-539s Accompanying I-129s - NAFSAs and the international communities that we support greatly appreciate the early 2023 USCIS update that H-4 and L-2 applications for extensions or changes of status and work authorization will now be adjudicated with a principal's Form I-129 nonimmigrant petition when those forms are concurrently filed. Considering how impactful this policy change is, does USCIS have a written resource or announcement outlining this update that it can share, aside from the *Edakunni v. Mayorkas* settlement agreement itself?

A30: The student, as the beneficiary of the H-1B petition, does not have administrative standing on an I-129 petition. Because the petitioner has administrative standing, USCIS notices pertaining to an H-1B petition are only sent to the petitioning entity and/or the petitioner's attorney of record. Under the existing regulations, USCIS may not send a copy of the H-1B revocation notice to the beneficiary of the petition.

Q31: Registration System – Could you provide a general overview of how the new electronic registration system has been working for the 3 fiscal years that it has been in place for cap-subject H-1Bs?

A31: The H-1B registration system was introduced in FY 2021 as a requirement for petitioners seeking to file H-1B cap-subject petitions. Rather than submitting full paper petitions to enter the H-1B cap selection process, petitioners now submit a registration through their myUSCIS account. This has saved both petitioners and USCIS time and money, as petitioners no longer have to prepare full petitions in advance of the H-1B cap selection process and USCIS no longer has to intake hundreds of thousands of paper-based petitions that must be rejected and returned if not selected.

The user experience for the H-1B cap electronic registration process has continuously been well-received by users, who have provided a high satisfaction score with the system for each year (the FY 2024 cap had a user score of 4.84 out of 5).

During the registration period for the FY 2024 H-1B cap, we saw a significant increase in the number of



registrations submitted compared to prior years. Generally, we saw an increase in the number of registrations submitted, the number of registrations submitted on behalf of beneficiaries with multiple registrations, and the number of registrations submitted on behalf of unique beneficiaries with only one registration. we saw upward trends in the FY 2022 and FY 2023 H-1B registration periods, as well.

The large number of eligible registrations for beneficiaries with multiple eligible registrations – much larger than in previous years – has raised serious concerns that some registrants may have tried to gain an unfair advantage by working together to submit multiple registrations on behalf of the same beneficiary. This may have unfairly increased their chances of selection. USCIS remains committed to deterring and preventing abuse of the registration process, and to ensuring only those that follow the law are eligible to file an H-1B cap petition.

Based on evidence from the FY 2023 and FY 2024 H-1B cap seasons, USCIS has already undertaken extensive fraud investigations, and denied and revoked petitions accordingly.

The H-1B program is an essential part of our nation’s immigration system and our economy, and USCIS is committed to implementing the law and helping meet the ever-changing needs of the U.S. labor market. We are working on an upcoming H-1B modernization rule that will propose, among other improvements, bolstering the H-1B registration process to reduce the possibility of misuse and fraud in the H-1B registration system.

Q32: What has USCIS learned over the past 2.5 cap seasons that would help international student/scholar advisors to better support students/scholars who may be pursuing an H with an employer (or wish to in the future)?

A32: USCIS begins selecting registrations for the H-1B cap early in the calendar year, generally a 14-day period in March. This deadline is easily missed by international students who are focused on their studies and have not yet begun their search for employment. We would encourage advisors to find interested students/scholars early to assist with their job search in order to obtain a legitimate job offer from a prospective H-1B petitioner prior to the registration period. Additionally, the student/scholar would need to satisfy the degree requirements (including equivalencies) prior to the filing of their petition. The petition filing period for those with selected registration notices generally begins in April, after the registration period closes, and goes through the end of June.

Q33: [J-1 Waiver of the Exchange Visitor Two-Year Home-Country Physical Presence Requirement] A/ROs regularly report lengthy processing times for exchange visitors to receive no objection waiver recommendations from the Department of State for waivers of the 212(e) home residency requirement. In cases where a change of status from J-1 is needed, timing can be very challenging because of this. Once USCIS receives the Department of State no objection waiver recommendation, what are average adjudication times for the I-612?



A33: Normally, the average adjudication time for Form I-612, Application for Waiver of the Foreign Residence Requirement (Under Section 212(e) of the INA, as Amended), is approximately two weeks. Once we receive the no objection waiver recommendation, USCIS is open to expediting the case.

Q34: In cases where timing is very tight, will USCIS allow for a petition to be filed with only the no objection statement?

A34: Yes, and applicants could also file without the no objection waiver recommendation, but the change of status application or petition cannot be approved without the recommendation, so it would be a split decision.

Q35: Would USCIS consider expediting the I-612 approval in cases like this?

A35: Yes, but there would need to be a pending change of status application or petition, such as Form I-129, Petition for a Nonimmigrant Worker.

Q36: CLAIMS (OPT Processing Data) - DSOs continue to see CLAIMS data not being updated correctly in SEVIS for approved OPT and STEM OPT, which results in DSOs having to request SEVIS corrections after a student's OPT application is approved. For recent graduates, DSOs report that as many as ⅓ of OPT applications are not properly updating in SEVIS once approved. This impacts not only SEVIS record accuracy, but also student access to the SEVP Portal. Is USCIS aware of these ongoing issues? What steps are being taken to remedy this issue?

A36: USCIS confirmed with SEVIS that this issue was resolved in Jan./Feb.

Q37: CLAIMS (Change of Status Data & Cap-Gap) - Traditionally, CLAIMS has pushed information to SEVIS in the case of F-1 students with pending or approved change of status to H-1B applications. This information then triggers the application of a Cap-Gap extension to the student's F-1 SEVIS record. When this CLAIMS procedure does not properly flow, the Cap-Gap extension is not automatically applied and DSOs pursue corrections with SEVP, which becomes quite a time-consuming task when multiplied by the number of students needing the data fix and the documentation SEVP requires to include with the tickets. Does USCIS have an update on efforts to sync CLAIMS data, including change of status data, with SEVIS?

A37: USCIS confirmed with SEVIS that this issue has also been resolved. SEVIS confirmed they have been receiving ELIS Cap-Gap and H-1B records since last year via this USCIS service.

Q38: Many schools report issues that students have with the Social Security Administration and state Registry/Department of Motor Vehicles based on incorrect data in SAVE. This primarily impacts those who have been approved for changes of status or those who were approved for OPT and then changed degree levels or completed a SEVIS transfer. SAVE pulls data from the previous status or the previous OPT segment, rather than the correct information from the current and active new SEVIS record. Is USCIS aware of these data issues with SAVE?



A38: SAVE is not aware of these data issues and did not see them when analyzing case data in response to this inquiry.

Q39: How does USCIS data feed into SAVE?

A39: For initial/automated verification, SAVE uses a USCIS information technology service that automatically compares the data provided by the SAVE user agency with data in USCIS, other DHS, and other federal government immigration records systems. For additional/manual verification, status verification personnel research immigration records using tools and direct access to immigration records systems.

Q40: What steps are being taken to remedy these issues?

A40: USCIS Response: SAVE did not see these issues when analyzing case data in response to this inquiry. However, SAVE will look further into this if NAFSA can provide SAVE case numbers or applicant information (first and last name, date of birth, and immigration identifier such as A-number or Form I-94 number) to point SAVE to cases where these issues occurred.

Q41: Currently students are often told that the issue is with the SEVIS record and directed back to the DSO, who is powerless to provide assistance if the SEVIS record is accurate. If nothing can be done to resolve the data issues, would USCIS consider additional training/resources to make SAVE users aware of these issues and how to resolve them?

A41: SAVE has provided recent training regarding this topic and others to Departments of Motor Vehicles and is working to do the same with Social Security Administration. However, a successful SAVE verification also depends upon the documentation and data provided by the public benefit/license applicant. So, SAVE asks that NAFSA also pass along the following best practices for benefit/license applicants:

- Present their most recent immigration documentation
- Ensure the name, date of birth, and immigration enumerator (USCIS/A-number, I-94 number, etc.) on the benefit/license application exactly matches the data listed on their immigration documentation.