



Immigration Solutions
 For Today's Challenging
 Environment

ICE Raids Tri-Valley University. Panic for Over 1500 Students.

On January 18, 2011, Immigration and Customs Enforcement [ICE] raided Tri-Valley University located in Pleasanton, California. ICE agents were at the Tri-Valley University campus on Boulder Court in Pleasanton and executed search warrants at three other properties owned by school founder Susan Su, including one in the gated Ruby Hill community.

The University is known to be a on-line university that is being called a "sham university" by ICE. They say that the university was a front to illegally provide immigration status to foreign nationals.

The Complaint, filed by the U.S. District Attorney's Office, claims Su was part of an elaborate scheme to defraud, using false statements and misrepresentations to the Department of Homeland Security to procure immigration benefits for the students, including immigration status, Curricular Practical Training [CPT] and Optional Practical Training [OPT].

According to the Complaint, Su and Tri-Valley University have made millions of dollars in tuition fees for issuing the visa-related documents and enabling foreign nationals to obtain illegal student immigration status. According to the

Complaint, more than 95 percent of students were from India and mostly from Andhra Pradesh. For more than half of them, the university reported their address as a single apartment in Sunnyvale. The apartment manager told ICE agents that four university students lived there from June 2007 to August 2009 and none since then. Investigators believe TVU reported that most of its students live at the apartment to conceal they don't live in the state.

ICE has issued a directive to all students on February 08, 2011 that if a student was enrolled as an F-1 student at TVU, that their status and any CPT or OPT has been terminated in the SEVIS system and they are instructed to call the SEVP Response Center and discuss their options with the help desk including the following:

1. File for Reinstatement
2. Voluntarily depart the United States
3. Reporting to ICE

Please refer to <http://www.ice.gov/sevis/schools/> for more information on the directive. We highly recommend that all options are discussed with a qualified immigration attorney prior to contacting SEVP or ICE or taking any further action.



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USCIS to Issue Single Employment Authorization & Advance Parole Card for Adjustment of Status Applicants

U.S. Citizenship and Immigration Services (USCIS) announced that it is now issuing employment and travel authorization on a single card for certain applicants filing an Application to Register Permanent Residence or Adjust Status, Form I-485. This new card represents a significant improvement from the current practice of issuing paper Advance Parole documents.

The card looks similar to the current Employment Authorization Document (EAD) but will include text that reads, "Serves as I-512 Advance Parole." A card with this text will serve as both an employment authorization and Advance Parole document. The new card is also more secure and more durable

than the current paper Advance Parole document.

An applicant may receive this card when he or she files an Application for Employment Authorization, Form I-765, and an Application for Travel Document, Form I-131, concurrently with or after filing Form I-485. USCIS will continue to issue separate EAD and Advance Parole documents as warranted. Employers may accept the new card as a List A document when completing the Employment Eligibility Verification, Form I-9.

As with the current Advance Parole document, obtaining a combined Advance Parole and employment authorization card allows an applicant for adjustment of status to travel abroad and return to the

U.S. without abandoning the pending adjustment application. Upon returning to the U.S., the individual who travels with the card must present the card to request parole through the port-of-entry. The decision to parole the individual is made at the port-of-entry. Individuals who have been unlawfully present in the U.S. and subsequently depart and seek re-entry through a grant of parole may be inadmissible and ineligible to adjust their status.

For more information about the EAD and Advance Parole card, see the related Questions and Answers. For more information on USCIS and its programs, visit www.uscis.gov.

(Courtesy of USCIS)

Employers to Face New Scrutiny as USCIS Implements VIBE Business Verification

U.S. Citizenship and Immigration Service [USCIS] will begin testing of a new verification program called Validation Instrument for Business Enterprises (VIBE). It is a program that will use Dun & Bradstreet (D&B) databases to verify employer business information provided in certain types of employment-based petitions. Employer will soon be seeing more questions about their financial & commercial activities, structure, and number of employee.

USCIS will use VIBE to verify an employer's ownership, date of incorporation, current addresses, financial

viability, number of employees, business activities, and relationship with other entities, among other information.

VIBE is to be used to verify Form I-129 nonimmigrant petitions for E, H-1B, L-1, L blanket, and TN classification, among others. Form I-140 immigrant petitions in the employment-based first preference (EB-1) subcategories for outstanding professors and researchers and multinational managers will also be verified through VIBE, as will EB-2 advanced-degree professional and exceptional ability cases and EB-3 professional, skilled and unskilled worker petitions. VIBE will not be used in adju-

dication of immigrant petitions for EB-1 extraordinary ability, EB-2 national interest waiver or EB-5 immigrant investor classification, or for O or P nonimmigrant petitions.

The deployment of VIBE means that employers could receive more USCIS requests for evidence (RFEs) and notices of intent to deny (NOIDs), which could cause delays in processing. USCIS plans to issue RFEs or NOIDs when the information provided in an employment-based petition conflicts with the Dun & Bradstreet databases that are the centerpiece of VIBE

Please contact our office for further guidance on the VIBE program and how it may impact your business and future filings with USCIS.



The Cap Gap Solution for F-1 Students

If you employ a F-1 non-immigrant student on post-completion optional practical training (OPT) and that student is the beneficiary of a pending or approved H-1B petition, the student may be able to continue working beyond the expiration date on his or her employment authorization document (EAD).

The Cap Gap

The word "cap" refers to an annual numerical limitation set by Congress on the H-1B nonimmigrant classification. The cap controls the number of individuals that can be granted H-1B status in a given fiscal year, subject to certain exceptions.¹ The current annual cap on the H-1B classification is 65,000.

In recent years, the number of H-1B petitions filed per year has exceeded the annual cap. Due to demand, the annual cap has been met during

the initial filing period, beginning on April 1. All cap-subject petitions filed during this initial filing period indicate a requested start date of October 1 (the start of the government fiscal year). In the past, F-1 students who were the beneficiaries of an H-1B petition often had their F-1 status expire before their H-1B status began on October 1 — a period known as the cap gap. The most common situation occurred when a student's OPT ended in the spring or early summer, and the student's F-1 status expired 60 days after that, leaving a gap of several months before the individual's H-1B status began on October 1.

An F-1 student in a cap-gap situation would, in most cases, have to leave the United States and return at the time the student's H-1B status became effective (at the beginning of the next fiscal year). Depending on when the student's status expired, such circum-

stances could require the student to remain outside the United States for several months. Please note that the numerical limitations do not apply to any nonimmigrant issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who is employed (or has received an offer of employment) at an institution of higher education, a related or affiliated nonprofit entity, a nonprofit research organization, or a governmental research organization.

Student Responsibilities

A student who is eligible for the cap-gap extension must work with a designated school official (DSO) at the student's school to receive an updated Form I-20. If a student is eligible for the cap-gap extension of OPT, the student can continue to work while the update to his or her Form I-20 is being proc-

essed. Because the cap-gap extension is automatic, the updated Form I-20 is not required for a student to continue working; it merely serves as proof of the extension of OPT employment authorization.

Employer Responsibilities

To assist a student in obtaining an updated Form I-20, you may need to provide the student with an I-797 receipt or approval notice issued by U.S. Citizenship and Immigration Services for the H-1B petition filed on the student's behalf. This receipt notice serves as proof of filing the H-1B petition and may need to be submitted to SEVP in order to update a student's Form I-20 to show eligibility for the cap-gap extension.

Please contact our office for further guidance on this.

Employers Get New I-9 Guidance Manual

U.S. Citizenship and Immigration Services has updated the Handbook for Employers, its official guidance on how to complete the Form I-9 employment eligibility process. The new handbook was released late Tuesday and is dated January 5, 2011. It replaces the previous edition, which took effect in April 2009.



ESTA Requirements & Emergency Travel

The widespread civil unrest in Egypt brings into focus problems travelers from Visa Waiver countries may encounter when Internet access for Electronic System for Travel Authorization (ESTA) registration is limited or unavailable.

CBP posted ESTA FAQs on October 6, 2010, including a brief discussion of CBP discretionary authority to waive ESTA registration due to emergent circumstances. As waivers of ESTA registration are handled by ports of entry on a case-by-case basis, communicating with CBP at the intended port of entry about the expected arrival(s) is suggested. The national office of CBP has indicated that it expects CBP offices to be flexible with Visa Waiver Program (VWP) travelers without an ESTA due to emergent circumstances.

PERM Processing Times (as of 02/04/2011)

PROCESSING QUEUE	PRIORITY DATES	
	MONTH	YEAR
Analyst Reviews	FEBRUARY	2011
Audits	JANUARY	2009
Standard Appeals	JUNE	2008
Government Error Appeals	Current	

VISA BULLETIN FOR MARCH 2011

Family	All Charge-ability Areas Except Those Listed	CHINA Mainland Born	DOMINICAN REPUBLIC	INDIA	MEXICO	PHILIP-PINES
1 st	01JAN05	01JAN05	01JAN05	01JAN05	01FEB93	15DEC94
2A	01JAN07	01JAN07	01JAN07	01JAN07	01JAN06	01JAN07
2B	15APR03	15APR03	01JAN01	15APR03	15JUL92	01AUG99
3 rd	01JAN01	01JAN01	01JAN01	01JAN01	01NOV92	08DEC91
4 th	01JAN00	01JAN00	01JAN00	01JAN00	22JAN96	15JAN88

Employment Based	All Charge-ability Areas Except Those	CHINA Mainland Born	DOMINICAN REPUBLIC	INDIA	MEXICO	PHILIP-PINES
1 st	C	C	C	C	C	C
2 nd	C	08JUL06	C	08MAY06	C	C
3 rd	01JUL05	22JAN04	01JUL05	15MAR02	08JAN04	01JUL05
Other Workers	15JUN03	22APR03	15JUN03	15MAR02	01MAY03	15JUN03
4 th	C	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C	C
5 th	C	C	C	C	C	C
Targeted Employment Areas/Regional Centers	C	C	C	C	C	C
5th Pilot Programs	C	C	C	C	C	C



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