The Visa Issuance Process

Peter Briggs, Director
International Students and Scholars
Michigan State University
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What is a visa?

• Stamp placed in a passport by a U.S. Consular officer
• Stamp does not mean status
• Valid stamp allows a person to request entry to the U.S.
• Two types: immigrant and non-immigrant
• Like a ticket to enter a theater; it only matters when you’re outside and wanting in
Non-Immigrant Visas

• Presumes that the stay in the U.S. is temporary and the person has a residence abroad to which they will return
• Section 214(b) of INA presumes immigrant intent unless applicant proves otherwise
• Means the applicant is “guilty before they are innocent”
• Demonstrating strong ties to home country is highly subjective
Immigrant Visas

- Permanent intent in U.S.
- No need to demonstrate residence abroad
- Eliminates eligibility for any temporary status
Non-immigrant Classifications Common to Universities

- B-1/B-2 Visitors for Business or Pleasure
- F-1 Student
- J-1 Exchange Visitor
- H-1B Temporary Worker
- O Extraordinary Ability
- TN Trade NAFTA
B visa

• Visitors for pleasure is B-2
• Visitors for business is B-1
• Scholars can be paid an honorarium for an occasional lecture
• Academic intent would violate status
F Visa

- Students in full time degree programs
- Students in full time non-degree programs (like ESL)
- Vocational students use the M visa
- Requires school to issue I-20 form
- Role of the Designated School Official
- Dependents hold F-2 status
J Visa

• Exchange visitor program is cultural exchange
• Department of State administers program
• Requires school to issue DS-2019 form
• Many categories includes: students, teachers, professor/research scholars, short term scholars, trainees, au pairs, camp counselors, alien physicians, international visitors, government visitors, specialists, flight trainees
• Each category has special features
H Visa

• Temporary workers:
• H-1B for specialty occupations
• Other H visas include: DOD research projects, fashion models, registered nurses, seasonal agricultural workers, non-agricultural seasonal workers and specialized training programs
O visa

- Workers of extraordinary ability
- Must demonstrate sustained international acclaim in science, art, education, business, athletics or tv/motion pictures
TN Status

- Trade NAFTA
- Canadian professionals
- Mexican professionals
Length of visa

- Determined by Consul
- Reciprocity issues: fees and duration
- Reciprocity Tables:
  http://travel.state.gov/reciprocity/index.htm
- Determining single vs. multiple entry
- Examples: China, India, Japan
Getting Started: Admission to School

• Student applies to school
• International applicants must verify financial support and demonstrate language ability in addition to academic standards
• School issues I-20 form upon granting admission to an international applicant
What is an I-20?

- Certificate of Eligibility for F visa
- Confirmation from school that non-immigrant student has been admitted
- Lists starting date, level of degree, field of study and expected degree completion date
- Student abroad needs form to apply for visa
What is a DS-2019?

- Certificate of eligibility for the J visa
- Change of J visa category not allowed inside U.S.
- Coding of form is complex to get program purpose, source of funding, etc.
- Exchange visitor needs form to apply for visa
What is the process to create a form and get it to a student?

- Institutions provide data to the DHS’ SEVIS
- SEVIS permits school to print I-20 form
- Two systems of SEVIS: RTI and Batch
- When form is printed, school mails I-20 form to student
- Electronic system relies on technology
- Visa application is a paper process
SEVIS Issues

- Total reliance on government technology
- Two parts of program:
  1. creating forms
  2. Reporting requirements
- Periodic reporting each term
- Event reporting per incident
Applying for a Visa

- Scheduling an appointment
- Student completes visa application Form DS 156
- Visa fee is $100 plus any reciprocity fees
- Support documents include passport, I-20 form and evidence of finance
- Personal interview
Interview Considerations

• Artificial environment
• Average time per interview is three minutes
• Applicants can get nervous and flustered
• Pressure
From the Consul Perspective

- Interpret INA section 214(b)
- Must see evidence of a residence abroad to which they will return
- Must judge adequacy and reliability of funding
- Can judge language ability
- Possible visa delay factors: name and field of study checks, visa type, age/gender, travel history, place of application
CLASS

- Consular Lookout and Support System
- First effort at name checking
- Required of all visa applicants
- If negative information is discovered, the Consul will refer application to office in Washington, DC for additional inquiry
From the Applicant’s Perspective

- Guilt before innocence when demonstrating strong ties to home country
- Must demonstrate economic ties
- Future job opportunities
- Family and social ties
- Pattern of return by others from that country
- Process is highly subjective
Tips for Success:

• Consistent spelling of name and name order can be a problem
• Advise students to follow suggestions from websites of local embassies and consulates
• Help departments write succinct descriptions of programs of study
Security Considerations

• Visas Mantis, Condor
• Revised Technology Alert List (TAL)
• Requesting a Security Advisory Opinion (SAO)
Issues with Third Country Nationals (TCN’s)

• Applying in Canada and Mexico
• VARS (Visa Appointment Reservation System)
• Automatic revalidation of visas not in effect if person applies for a visa
Responding to Visa Denials

• Consuls have the final say in decisions
• Most denials are due to Section 214(b)
• DHS is final judge under Section 428 of Homeland Security Act
• Reconsideration only with new evidence
• Congressional advocacy: are they effective?
Following Lengthy Visa Delays

• Most delays result from security checks
• Reporting delays with: usvisa@state.gov and SAOInquiries@state.gov
• NAS: visas@nas.edu
• NAFSA: www.nafsa.org/visadelay
• Legalnet@state.gov
• White House OSTP contact is Wendy Hall
• FBI contact is David Hardy: dhardy@fbi.gov
Special Issues

- State Sponsors of Terrorism list: Cuba, Syria, Libya, Sudan, Iran, Iraq, North Korea
- List of 26 countries
Other Issues

- Training of Consular officers
- Training of DHS staff
- Professionalizing the national welcoming
Q & A