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On the Immigration Horizon

Avi Friedman

Nusha Shishegar

Please help yourself to snacks!



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Please check in for the event:





Avi Friedman
Wolfsdorf Rosenthal Immigration



Nusha Shishegar
Glendale Community College

Today's Agenda

- How People Get Visas
- Recent Changes in the Non-Immigrant Immigration Landscape
- On the Immigration Horizon
- Always Good to Remember
- Advocacy: How You Can Help
- Questions & Answers



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How People Get Visas

Who are Consular Officers?

- Despite intended career path (Political, Economic, Public diplomacy, Management, or Consular), all foreign diplomats serve at least 1 of 4 initial years as consular officer
- Most Consular Officers aren't legal professionals
- Receive basic consular training (5-7 weeks) with language training if necessary. On-the-job training essential
- Decentralized post management creates significant variance from post to post
- Workload is HIGH, especially in large posts (Mexico, China, Brazil, India) – 120 to 140 visas processed per day, per officer

Anatomy of a Visa Interview



2-minute interview:

- Review application
- Interview applicant
- Security checks
- Case notes
- Document review is optional

- 214(b) factors
- Validation Studies

- Consular officers perceive that they are lied to frequently –immaterial “white lies” will result in a denial

BOTTOM LINE: Each application for a nonimmigrant visa is a detailed exploration of the individual’s entitlement to admission to the US in a particular nonimmigrant category, even if a renewal.

Administrative Processing

- Several types of “checks” fall under this umbrella:
 - Additional documents needed from applicant (simplest to resolve)
 - Fraud Investigation
 - AOs (Advisory Opinion)
 - SAO’s (Security Advisory Opinions)
- SAO’s and requests for criminal records are ordered by consulates on a wide variety of persons:
 - The person’s activity in the US might pose a security risk (sensitive technologies).
 - The person has a common name, or name which may be transliterated in a number of ways (eg Mohamed Ali).
 - The person is a national or native of a country which poses a security issue (eg, China, Israel, Iran, Syria, Russia).
 - The person has any criminal history.
 - The person has a history of alcohol or drug abuse.
- Such checks can take anywhere from a few days to months to resolve - technically a visa “refusal” while administrative processing ongoing; “refusal” will be noted as 221(g) AKA “soft refusal.”
- Very difficult to expedite or resolve unless the person is “high profile” or can file a Mandamus Lawsuit.



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Recent Changes in the Non-Immigrant Immigration Landscape

What's a Non-Immigrant?

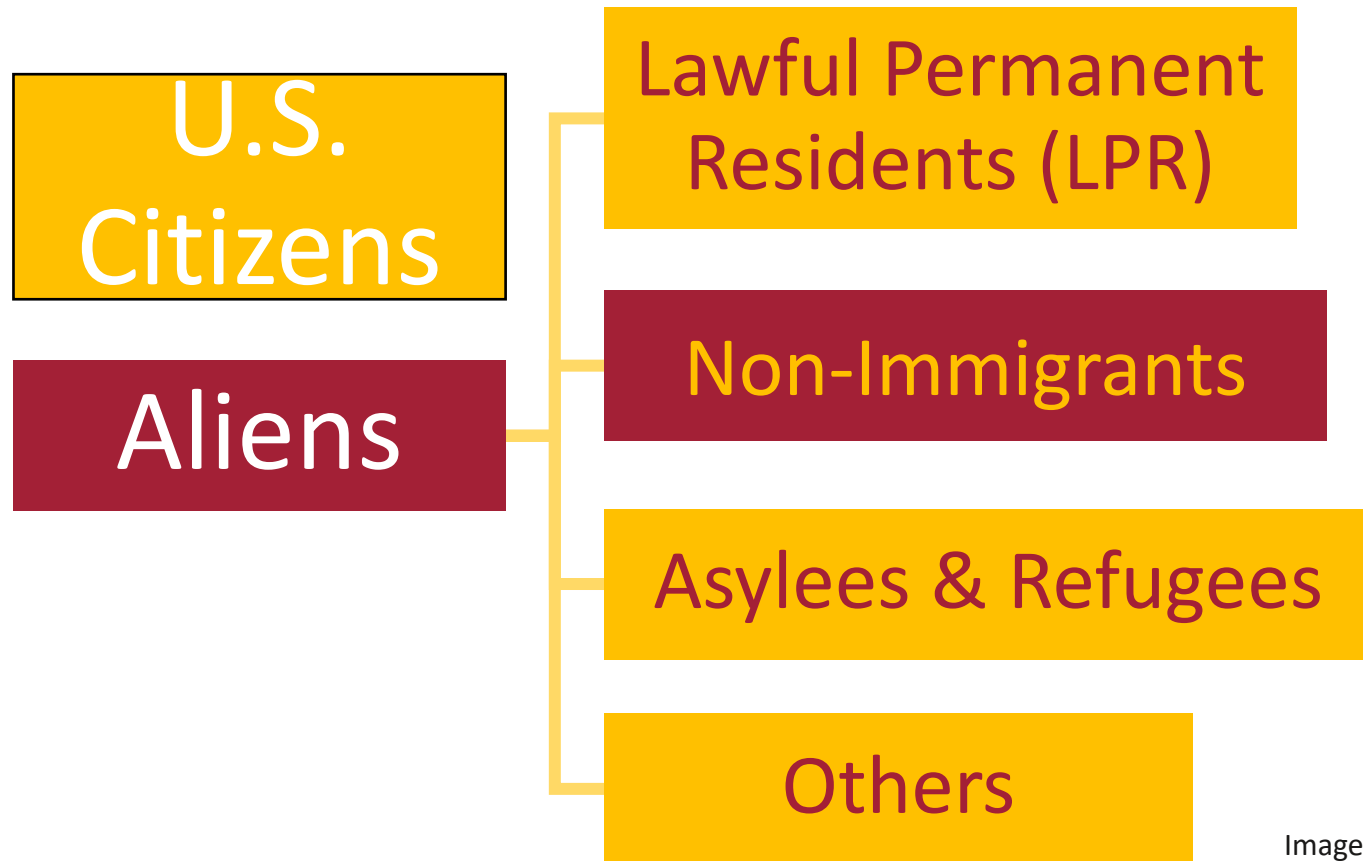


Image courtesy of NAFSA F-1 Beginners Workshop

Social Media Vetting

- Students must disclose any and all social media on DS-160 application.
 - What is considered social media?
- Applicants for F, M, and J nonimmigrant visas – including those renewing visas – will be instructed **by the consulate** to adjust the privacy settings on all of their social media profiles to “public.”
 - ALL APPLICANTS will face “administrative processing” period for these checks.
- Looking for “anti-American” sentiment and other “derogatory” behaviors
 - Consular officers are tasked with identifying "potentially derogatory information" including undefined terms like "hostile attitudes" toward the United States and political activism. Lack of clear definitions means significant discretionary power by a consular officer.
- What happens if a student doesn't have social media?

Travel Ban 2.0

- Effective June 9, 2025, citizens of Afghanistan, Burma/Myanmar, Chad, Republic of the Congo, Equatorial Guinea, Eritrea, Haiti, Iran, Libya, Somalia, Sudan, and Yemen are subject to a total travel ban (all visa categories).
- A partial ban has been placed on tourist (B) and student visa (F/M/J) holders from Burundi, Cuba, Laos, Sierra Leone, Turkmenistan, and Venezuela; individuals from these countries may enter the US in other visa categories.
- **Visa Reciprocity Changes:** Effective July 2025, citizens from the countries of Angola, Benin, Bhutan, Burkina Faso, Cabo Verde, Cambodia, Cameroon, Cote D'Ivoire, Democratic Republic of Congo, Ethiopia, Gambia, Ghana, Kyrgyzstan, Madagascar, Malawi, Micronesia, Niger, Nigeria, Palau, Sao Tome and Principe, South Sudan, Syria, Tanzania, Timor-Leste, Tonga, Tuvalu, Uganda, Vanuatu, Zambia, & Zimbabwe **are eligible only for single-entry F-1 visas with an expiration date of 3 months after issuance.** Countries may be added/removed.
 - Visas issued before July 2025 with longer duration/multiple entries are honored.

Visa Revocations

- Visas can be revoked for any reason that may trigger inadmissibility, including an arrest for any reason
 - Continue to see visa revocations and refusals for Chinese nationals associated in any way with the People's Liberation Army, Chinese Communist Party or who are suspected of IP theft, - relates to Presidential Proclamation 10043 (5/29/20)
- A consular officer may revoke with or without the presence of the applicant
- CBP will revoke if an applicant is found inadmissible, only at the POE or at Deferred Inspection.
 - Electronic equipment searches by CBP on the rise.
 - USCIS, ICE cannot revoke visas.
- If a nonimmigrant is present in the U.S., revocation has **zero effect** on status, BUT it does render the person removable. Removal proceedings are subject to prosecutorial discretion.
- Note that SEVIS termination does NOT result in visa revocation, but a written finding of status violation by USCIS or an Immigration Judge does automatically revoke the visa under INA Section 222(g), as well as starting accrual of unlawful presence.

Visa Revocations

- Arrest or conviction for DUIs, marijuana use, and related offenses:
 - Immediate nonimmigrant visa revocation where the Department of State learns of an arrest and/or conviction within the last five years for alcohol- or drug-related DUI
 - When applying for a new visa, applicant can be subject to a mandatory medical exam by a panel physician to determine whether drug or alcohol use constitutes a substance-related disorder, rendering them inadmissible to the U.S.
 - Usually required to remain abroad at least one year before new visa will be issued.
 - Full remission is defined as a period of at least 12 months during which no substance use or mental disorder-associated harmful behavior have occurred. The panel physician has discretion to use their clinical judgment to determine if 12 months is an acceptable period for an individual applicant to demonstrate sustained, full remission.
 - Consular Officer not bound by panel physician's findings, but follows 99%.
 - Waiver? Class A Health Condition is not waivable.

Visa Revocations

- In April 2025, SEVP terminated thousands of records across schools in the US on the basis of DOS visa revocations
- Revocations were abnormal: traffic tickets, misdemeanors
- Individual and group lawsuits were filed and successful in reinstating these records
- However, students with these terminations should assume that visa remains revoked, regardless of if notification was received by embassy. International travel is strongly discouraged.

Third Country National Processing

- September 6, 2025 DOS issued a notice regarding Third Country National Visa Processing:
 - “Applicants for U.S. nonimmigrant visas (NIV) **should** schedule their visa interview appointments at the U.S. Embassy or Consulate in their country of nationality or residence.”
 - “Applicants applying outside their country of nationality or residence should expect to wait significantly longer for an appointment.”
 - “Applicants who schedule nonimmigrant interviews at a U.S. embassy or consulate outside of their country of nationality or residence might find that it will be more difficult to qualify for the visa”
- **Practical reality:**
 - Expect more scrutiny in these cases. Must have extremely good reason applying as a TCN
 - Exceptions for humanitarian or medical emergencies or for foreign policy reasons.
 - Major impact for “busy” posts with already extremely long waits (India, China, etc)
 - Expect posts to limit or deny TCN applications
 - Real challenge for “homeless” nationalities or those who wish to engage in Study Abroad

“Registration Requirement”

- March 12, 2025 began enforcing ancient INS regulation requiring “registration” with the U.S. government at age 14
- Requires children who turn 14 while in the U.S. to "re-register" with USCIS within 30 days of their birthday, even if previously registered when entering the country.
- This may affect F-2, J-2, H-4 dependents and young F-1/J-1 students who entered before age 14.
- Most nonimmigrants who entered the U.S. at age 14+ are already automatically registered (as evidenced by their Form I-94) and DON'T need to re-register.

H-1B Presidential Proclamation: "Restriction on Entry of Certain Nonimmigrant Workers"

- On Friday, September 19, 2025, President Trump issued a Proclamation titled “Restriction on Entry of Certain Nonimmigrant Workers” “restricting” entry of workers on H-1B visas unless employers made a \$100,000 payment to the federal government
- Implementation Guidance on October 20, 2025, from USCIS:
 - The Proclamation does not apply to any previously issued and currently valid H-1B visas, or any petitions submitted prior to 12:01 a.m. ET on September 21, 2025. The Proclamation does not prevent any holder of a current H-1B visa, or any alien beneficiary following petition approval, from traveling in and out of the US.
 - **The Proclamation does not apply to a petition filed at or after 12:01 a.m. ET on September 21, 2025, that is requesting an amendment, change of status, or extension of stay for an alien inside the United States where the alien is granted such amendment, change, or extension.** Further, an alien beneficiary of such petition is not subject to the payment upon departing the United States and applying for a visa based on the approved petition or when traveling on a current visa.
- **Takeaways:** focuses on one of four major immigrant streams; styled as exclusion order rather than fee increase (would require reg); tech bro's now officially "out"; "H1B dependent" employers already under many restrictions. Potential downstream impact on recruitment of international students due to confusion



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- Litigation Pending:
 - Global Nurse Force v. Trump, 25-cv-08454 (ND CAL)
 - Chamber of Commerce v. DHS, 1:25-cv-03675 (DDC)

I-17 Data Collection Changes

- I-17 is the school's "contract" with the government – contains information about the school & authorized officials. A school's I-17 must be approved by the Student and Exchange Visitor (SEVP) program to enroll international students. A school's Primary Designated School Official (PDSO) must update the form within 21 days of any material changes.
- DHS is proposing revisions to Forms I-17 that would require schools to report more detailed information on programs of study, costs, and designated school officials, and to collect new data on students' guardians, graduation dates, funding sources, instructional modes, and **employment or training activities** (including on-campus work).
- May make it more difficult for academic institutions to allow F-1 students immediate enrollment in new programs due to I-17 waiting periods
- Will greatly increase Designated School Official (DSO) reporting burden – over 22,000 comments submitted

USCIS Directives

- On August 19, 2025, U.S. Citizenship and Immigration Services (USCIS) announced that it has expanded the types of benefit requests that receive social media vetting, adding reviews for "anti-American" and "antisemitic" activity to that vetting, stating that such activity will be "an overwhelmingly negative factor in any applicable case involving USCIS discretionary analysis."
- Ombudsman's Office was closed at the beginning of 2025
- Have yet to see how this will play out but anticipate that "extreme vetting"/social media searches will become a factor for adjudication decisions – USCIS has begun amending forms.

End to Automatic Extensions for Specific Categories

- **Effective 10/30/25, DHS Interim Final Rule Eliminates Automatic EAD Extensions** for renewal applicants in affected categories such as refugees, asylees, TPS beneficiaries, E- and L-dependent spouses, H-4 spouses, VAWA self-petitioners, and adjustment-of-status applicants.
- **Does NOT** affect extensions of work authorization "otherwise provided by law," such as the 240-day extension for H-1B, O-1, and TN workers and the separate F-1 cap-gap and 180-day STEM OPT extension provisions.
- Although the rule went into effect on October 30, DHS will accept public comments through December 1, 2025.
- Applicants in affected categories must take care to file renewals EARLY

Challenges to OPT

- Bills filed to limit or remove the ability for post-completion work opportunities for F-1 students (OPT)
- Unlikely to pass – similar bills have been proposed several times over the last decade and have not been successful.
 - Historically viewed as detrimental to the attractiveness of the U.S. as a study destination
- Student and Exchange Visitor Program has begun to proactively terminate students for failure to report employment, however. Students must be vigilant about the 10-day reporting period.

Proposed Regulation to End D/S

- Fixed-date admissions to the United States: Instead of being admitted for "duration of status" (D/S) (since 1991 for F students and 1993 for J exchange visitors), individuals applying for admission in either F or J status (F-1 students, F-2 dependents, J-1 exchange visitors, and J-2 dependents) would be admitted for a fixed date, recorded on the F or J nonimmigrant's Form I-94
- Limited to the program end date noted on Form I-20 or DS-2019, not to exceed 4 years, plus a period of 30 days following the program end date;
- The F-1 grace period would be reduced from the current 60 days to 30 days
- I-539 extension of stay process with USCIS: Individuals who need time beyond their period of admission for whatever reason (e.g., an extension of program, school transfers, moving academic levels, use of post-completion practical training or academic training) would have to timely file a Form I-539 extension of stay application with USCIS before their status expires (with fee, biometrics, and possible interview)

Proposed Regulation to End D/S

Potential Impact:

- Reduced flexibility for extensions, transfers, and academic level changes.
- Increased risk of status lapse if extension not approved on time.
- More USCIS filings, fees, interview and administrative delays.
- Unlawful presence bars for overstay
- Big impact on Community Colleges who see a large portion of “returner” students



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Always Good to Remember

CBP Admissions Process

- Everyone arriving at a U.S. port of entry is subject to inspection.
- As part of the inspection process, CBP officers
 - Verify the identity of the person
 - Determine the admissibility of the traveler
 - Look for prohibited items.
- Ask questions regarding:
 - Your citizenship
 - The nature of your trip
 - Anything you are bringing back to the United States that you did not have with you when you left
- Right to Remain Silent – **but best to answer questions.** Failure to do so as a noncitizen may lead to denial of entry to the U.S. or detainment for search and/or questioning.

CBP Admissions Process: Secondary Screening

- You may be subject to a CBP inspection/secondary screening for a variety of reasons, including:
 - Travel documents are incomplete, or you do not have the proper documents or visa
 - Travel with valid passport, valid visa, valid I-20/DS-2019
 - CBP can issue waiver of visa or passport but rare
 - You have previously violated one of the laws CBP enforces (Customs/Immigration)
 - You have a prior or current SEVIS termination
 - Your name matches a “person of interest” in one of the government's enforcement databases
 - You have been selected for a random search.

CBP Admissions Process: Searches

- **Electronic Devices** Can Be Searched at Airports and Land Ports
 - CBP Authority/Policy to Search Electronic Devices: <https://www.cbp.gov/travel/cbp-search-authority/border-search-electronic-devices>
 - Officers may search Laptops, Cell Phones, or other electronic devices
- Selection may not be based on religion, race, national origin, gender, ethnicity, or political beliefs.
- U.S. citizens may also be questioned and may have their devices seized for refusal to provide passwords or unlock.
- U.S. citizens cannot be prevented from entering the U.S.
- Noncitizens may be denied entry if they refuse
- **No right to an attorney** at Port of Entry based on fiction that not “admitted” to U.S.

Requirement to Carry Documents and Conduct Timely Reporting

- **After entry**, non-immigrants must always carry proof of current authorized stay (F-1 students = signed I-20 & I-94)
- Must present documents to an immigration official, if asked – dependents as well
- Required to report changes in personal information within 10 days of the change



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Advocacy: How Can You Help

Advocacy & Allyship

- **Stay Informed!** Sign up for NAFSA's *Connecting our World* Newsletter: <https://www.nafsa.org/policy-and-advocacy/take-action>
- **Be An Ally:** Call and write your congress people
- **Be a part of the VERIFIED INFORMATION network** – always direct to the proper sources (AKA *not* the internet/social media)
- **Donate** to make the lives of international students better!
<https://www.glendale.edu/foundation> – specify contributions for International Student Scholarship



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Questions?



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