Federal Immigration Law
Compliance and Best Practices
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Presenters

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Immigration Basics

- U.S. citizens
- Permanent residents
- Nonimmigrants (temporary status)
- Illegals
Nonimmigrant (Temporary) Visas
- Alphabet soup
- Specific time limitations
- Specific authorized activities

H-1B Specialty Occupations
- Specialty Occupations - Professionals
- Bachelor’s degree minimum
- Right type of degree
- Prevailing Wage

J-1 Exchange Visitors
- Consider adding J-1 program
- Can be used for faculty members
- Beware the two-year foreign residence requirement
- New limits on research scholars
Beware the J-1 Visa Trap
The Two Year Foreign Residence Requirement
- Home government funding
- U.S. government funding
- Skills List of Home Country
- Foreign Medical Graduates seeking post graduate training

TN Status
- Under NAFTA
- Canadian/Mexicans
- Limited numbers of occupations
- Teachers at colleges and universities included
- Benefits - speed and expense
- Detriment - Temporary Intent

O-1 Extraordinary Ability
- Demonstrated extraordinary ability
- Evidenced by objective standards
- Save the H-1B filing fee
- Avoid Prevailing Wage issues
Permanent Residence Paths
- Refugee/Asylum
- Diversity Lottery
- Family based immigration
- Employment based immigration

Refugee/Asylum Route
- Well founded fear of persecution
- Political overtones
- Strict timelines for filing

Diversity Lottery
- 50,000 annual “winners”
- Specific countries only
- Electronic submission of applications
- Digital photo required
- www.travel.state.gov
**Family Based Route**
- Limited circle of family
- Spouses and children of USCs
  - regardless of age or marital status
- Spouses and unmarried children of PRs
- Siblings of USCs
- Parents of USCs

**Employment Based Permanent Residence**
- Labor Certification Process
  - Special Handling for college faculty
    - “Best qualified” standard
  - Non-teaching positions
    - Only person left standing

**PERM Update Special Handling for Faculty**
- Speedy turnaround
- Occasional glitches within system
- 18 months from selection*
- Utilizing prior recruitment
- One hard copy ad *
- One internal (10 business days) posting
Labor Certification Exemptions

- Outstanding researcher/professor
- Extraordinary Ability
- National interest Waiver
- Certain exceptional ability candidates (Schedule A)

The Hot and Not-So-Hot

- SEVIS
  - Flags
  - “Hits” and visa delays
  - Collisions of Policy and Practice
  - Careless use and aggressive agents

SEVIS - “Flags”

- What are they
- How to remove them
- What’s the impact
- Working around them
**SEVIS and “Hits”**

- What is a name check “hit”
- Why do they occur
- On the upswing
- Planning for delays

**SEVIS - Policy and Practice**

- Static computer system and real life
- Developing an institutional policy
- Students going abroad
- Maintaining institutional ethics

**Aggressive Government SEVIS Tactics**

- ICE enforcement issues
- Staying abreast of policy changes
- What to do when students are taken into custody
More of the Not-so-Hot
The H-1B Crisis
- H-1B numbers exhaustion and gap
- Legislative initiatives
- Creative partnerships

Retrogression of Permanent Numbers
- Visa Bulletin www.travel.state.gov
- Continuing problem
- Impact on EB-2 and EB-3 cases
- Heavy stress for India/China cases

Miscellaneous Developments
- “Bi-specialization” – negative impact
- Diminishing local district office authority
- 5 year rule for J-1s
The Headache Worsens

- Driver’ License Woes
  - Impact of Real ID Act
  - Planning for delays
  - Timing the extension
  - Setting policies for earlier permanent residence processing

Social Security Numbers and Tax Documents

- Delays in card issuance
- How to pay
- How to deduct tax
- Working without a social security number
- Volunteers vs employees

Got a Match? - The No-Match Letter

- Collision of legal obligations and liabilities
- Proposed regulations
- Fashioning an in-house solution
Can it get any worse?

- Legislative initiatives
- Public policy discussions
- Academia’s place in the debate

Thank you & Good Day

The End