Immigration Update
29th Annual National Conference on Law Higher Education

Helen L. Konrad, Esq.
Mark B. Rhoads, Esq.
McCandlish Holton, PC
Richmond, VA

---

Immigration Basics

- **Immigrant** – Intent and permission to remain permanently
  - Family
  - Humanitarian
  - Lottery
  - Employment

- **Non-Immigrant** – Intent and permission to remain temporarily
  - Over 20 categories
  - Strict limitation on activities

- **Visa v. Status** – Visa is entry document; status is permission to stay
**Immigration Agencies**

- **Citizenship and Immigration Services (CIS)** – Formerly INS; determines eligibility for immigrant and non-immigrant status
- **Department of State** – Issues visas, no appeal of denial
- **Customs and Border Control** – Permission to enter
- **Immigration and Customs Enforcement (ICE)** – Enforcement, detention, deportation
- **Department of Labor** – Protect U.S. jobs, wages, working conditions

**Common University Visas**

- **International Students**
  - F-1 – Students in full time academic program of study
  - J-1 – Graduate students, medical residents

- **SEVIS Issues** – Maintain full course load (12/9)
- **Employment Issues**
  - F-1 – On-campus limited to 20 hours per week
    - Few off-campus options
  - J-1 – Academic training – on-campus
Common University Visas

- **Faculty / Researchers**
  - H-1B – degreed professionals; 6 year limit; dual intent
  - J-1 – scholars, research faculty; streamlined entry; 2 year home residence requirement; non-immigrant intent; no tenure
  - TN – Canadian/Mexican university teacher (and other listed non-teaching options); 1 year increments; non-immigrant intent
  - O-1 – Extraordinary Ability; 1 – 3 year increments; non-immigrant intent; option for J’s subject to residency requirement
  - B-1 – Honoraria for short term academic activity
  - Visa Waiver – 90 day entry; similar to B-1

Immigration Administration Issues

- **Visa / Green Card Administration**
  - Decisions on sponsorship (who decides?; which positions?; how long must you be employed before you can begin?)
  - Cost of non-immigrant processing
  - Cost of green card processing
  - On-going obligations
    - Wage, duty changes, file maintenance, CIS notifications
  - **I-9 Compliance** – Initially and for reverification; document retention; centralization
  - **Foreign Student Advisor** – SEVIS administrator
  - **Payroll / Provost**
    - Monitor student employment obligations and H-1B prevailing wage
    - Support required recruitment efforts for green cards