

PROMOTING SECURE BORDERS AND OPEN DOORS

Recommendations for a National-Interest-Based Visa Policy for Students and Scholars

NAFSA: Association of International Educators

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1. Provide effective policy guidance.

- **Congress and the Department of Homeland Security must act to make “Secure Borders – Open Doors” the effective policy guidance for the Department of State.**

IMPLEMENTATION STATUS: There has not yet been a formal, joint statement by the Department of State (DOS) and the Department of Homeland Security (DHS) that clearly articulates visa policy—i.e., that would turn “Secure Borders, Open Doors” into operational policy.

2. Focus efforts on those who require special screening.

- **Give consulates discretion to grant waivers of personal appearance based on risk analysis, subject to State Department policy guidance and approval**, as recommended by the State Department Inspector General in December 2002.

IMPLEMENTATION STATUS: Under the terms of the 2004 Intelligence Reform Act, the Secretary of State no longer has the authority to implement this recommendation. However, DOS gives priority for personal interviews to students and scholars and has brought some measure of transparency to the interview process by posting online the wait times for individual consulates.

- **Refine controls on advanced science and technology.** In consultation with the scientific community, define the advanced science and technology to which access must be controlled, and empower consular officers to exercise discretion on non-sensitive applications where neither the applicant nor the applicant's country present concerns.

IMPLEMENTATION STATUS: NAFSA is unaware of any progress in returning the Technology Alert List (TAL) to its original intent of controlling access only to advanced technology (although it is difficult to know, given that the list is now classified). There is an inter-agency process, headed by the Department of Homeland Security, which will discuss, among other issues, the application of the TAL. DOS is also spending more time training incoming consular officers about the TAL, and is also providing additional training to officers in the field.

- **Avoid repetitive processing of those who temporarily leave the United States.** Institute a presumption that a security clearance is valid for duration of status or program, assuming no status violations. Any necessary reviews within this period should be fast-tracked.

IMPLEMENTATION STATUS: Mantis clearance validity for certain types of visitors has been extended to one year, and DOS has expressed its commitment to extending it further.

- **Avoid repetitive processing of frequent visitors.** Establish a presumption of approval for those who have previously been granted U.S. visas and who have no status violations.

IMPLEMENTATION STATUS: No system has been put in place to avoid the repetitive processing of frequent, well known visitors. DOS is attempting to negotiate with China to increase reciprocity for Chinese students coming to the United States. This would alleviate the problem for these students.

- **Expedite processing and save consular resources by incorporating pre-screening or pre-certification of students and scholars.** This could be accomplished in many ways. Options include: (1) sending countries agreeing to pre-screen applicants in order to facilitate their citizens' entry into the U.S.; (2) sending universities providing identity verification under agreements executed with consulates; and (3) the State Department utilizing its own overseas advising centers to ensure that all necessary documents are in order prior to applications being sent on to the consulates.

IMPLEMENTATION STATUS: NAFSA have seen no movement on this recommendation.

3. Create a timely, transparent and predictable visa process

- **The White House should institute standard guidelines for inter-agency reviews of visa applications:**

- Establish a 15-day standard for responses to the State Department from other agencies in the inter-agency clearance process.
- Implement a 30-day standard for the completion of the entire inter-agency review process, including the response to the consulate's security clearance request.
- Flag for expedited processing any application not completed within 30 days, and advise the consulate of the delay and the estimated processing time remaining.
- In the case of applications not completed within 30 days, the applicant, or the program to which the applicant seeks access, should be able to inquire about the application's status, and the estimated processing time remaining, via a call-in number or email inbox.
- Establish a special review process to resolve any cases not decided within 60 days.

IMPLEMENTATION STATUS: DOS has streamlined this process by moving from a paper-based system to electronic transmission of clearance requests – meaning that clearance requests no longer get “lost” as they did in the previous system. DOS has also worked with the other agencies involved to speed up the time in which the overwhelming majority of these requests are processed. While there is still little transparency in the process for individuals whose clearances aren't processed within 30 days, DOS reports that the average processing time for Mantis cases is 14 days. DOS also reports that as of January 13, 2005, only 30 cases out of 18,000 are more than 30 days old.

- **Make ground rules predictable by imposing them prospectively,** not on those already in the application pipeline.

4. Provide the necessary resources, and manage within them.

- Congress must act to bring the resources appropriated for the consular affairs function into line with the increased scrutiny of visa applications that Congress demands, and the State Department must manage within the available resources.
- Adequate resources must be provided to ensure the interoperability of data systems necessary for the efficient functioning of the inter-agency review process.

IMPLEMENTATION STATUS: Since 9/11, Congress has increased funding for consular officers. The Department of State advises NAFSA that they now have sufficient staff resources in place for current needs, noting that the Department has added 350 new consular Foreign Service positions since 2002. However, data systems remain inadequate.

<http://www.nafsa.org/visarecsupdate>.