

Minutes PIER Meeting

Wednesday, September 14, 2005

10:00AM – 12:00PM

880 Federal Bldg., Sixth Floor, Room 6273

A. Welcome: Chair Kim Jackson welcomed everyone to the first PIER meeting of 2005-2006.

B. Introduction of ICE Supervisor Holly Lundgren

Holly introduced several colleagues in the audience who would be available for questions after the meeting along with the panel.

1. Serge Duarte – Deputy Special Agent in Charge
2. Loraine Concha – Assistant Deputy Special Agent in Charge
 - ✓ Loraine Welcomed PIER and praised Holly on doing well in her new position. She informed us that Holly is our point of contact, and to address any questions or concerns directly to Holly.
3. Amy Bowen – Supervisor of Naturalization Services.

C. Introduction of 2005-06 PIER Executive Board

1. Kim Jackson: Chair
2. Olga Piro: Chair-Elect
3. Kasey McCarthy: Membership
4. Eric Abutin: Treasurer
5. Melissa Diaz: Secretary
6. Karla Macias Mendoza: Webmaster

Kim mentioned that any job announcements, etc. should be sent directly to Melissa for distribution as long as they contain appropriate material.

D. Introduction of DHS/DOS Panel Representatives

1. Chuck Kotkin: Citizenship & Immigration Services (CIS) Student Officer
2. Sandra Raynes: US Consulate Non-Immigrant VISA Chief, Tijuana
3. Kerri Castillo: Senior Special Agent, ICE Investigations
4. Robert Vanness: Branch Chief, San Ysidro POE
5. Aide Morales: Inspector, Deferred Inspections
6. Maria Flores: Special Cases Officer, San Ysidro POE
7. Marco Jimenez: Supervisory Inspector, San Ysidro POE

E. Introduction of PIER Members: In keeping with tradition, all the members in attendance introduced themselves by name and institution, including a very relaxed Vince Burns.

F. PIER Board Presentation: Kim acknowledged the outgoing PIER board members, with certificates of appreciation and outstanding achievement. Only two of the four outgoing board members were present; however a warm round of applause was given for all outgoing members.

G. PIER Business

1. **Membership:** Kasey McCarthy

a. Kasey informed everyone that there were applications on the table by the entrance or that they could be downloaded from our website. A members list would be passed around and she asked everyone to check their information, and include any updates if needed. She also mentioned that the information highlighted in yellow designated those members whose membership fees had been submitted, and member information in bold designated new members. Kasey informed the group that she and Eric would be available after the meeting to collect membership applications and fees, and to please let her know who needed a receipt so she could make sure to send out a receipt to all that needed one.

2. **Treasurer:** Eric Abutin

a. Eric informed the membership that we had \$1370.35 in checking and \$35.84 in savings. He also informed everyone that he had parking vouchers for anyone who needed them.

3. **Chair Elect:** Olga Piro

a. Olga spoke about our Mentor program. She encouraged new members to sign up for a mentor, as it was very invaluable to have one. She herself had a mentor when she first started and has been a mentor to others as well. She also encouraged seasoned PIER members to sign up to be mentors. There is currently an imbalance of mentors and mentees.

Announcements:

- ✓ Immigration Workshop @ National University on February 24, 2006.
- ✓ Olga will be contacting seasoned PIER members to present at the workshop.

4. **Chair:** Kim Jackson

a. Kim informed everyone that based on the surveys of interests and needs conducted last year, the biggest request for our Professional Development Outing was a trip to LAX. She mentioned that she has been in contact with CBP to set up a trip for April of 2006. At this point in time they have tentatively agreed that April 2006 is ok, and the coordination and planning of this trip is in the works.

b. Members were also informed that the PIER logo contest would be re-opened once membership was up and running. An invite will be sent out for members to submit a new design. The new design must be an original creation and include the PIER website address.

c. Next Meeting will be held @ USD on November 2, 2005 and will focus on Admission procedures, such as credential evaluations, policies and practice with different visa categories, and dealing with undocumented immigrants. Overseas advisors (whom will be hosted by Mira Costa College) will be attending the meeting at USD.

Announcements:

- ✓ NAFSA Region XII Conference will be held in Anaheim from 10/10/05 -10/13/05.
- ✓ Please visit the Region XII website for program and hotel information.
- ✓ CBP will have a panel at the Region XII NAFSA conference.
- ✓ The PIER Membership Brochure now includes a privacy box. Members can check whether they want their membership information posted on the PIER website.

d. Kim then opened up the floor for additional announcements.

Announcements from the Audience:

- ✓ **Daniel McMartin:** Region XII NAFSA conference is in October however everyone is encouraged to start registering now.
- ✓ **Daniel McMartin:** She will be taking care of the conference evaluations and is asking PIER members to volunteer to distribute the evaluation handouts at the different sessions.
- ✓ **Daniel McMartin:** Sessions that receive good ratings are invited to go to the National NAFSA conference; therefore evaluations of the sessions are very important.
- ✓ **Kasey McCarthy:** Region XII NAFSA conference: An M1 workshop will be conducted on Thursday after the conference. The workshop will focus on community colleges, presentations by Long Beach City College, and Musicians Institute. Currently no one has signed up for this session yet.
- ✓ **Noah Hansen:** CSC (California Service Center) Tour is FREE!

At the conclusion of the Q&A an optional tour of Deferred Inspections and Chucks Office will be provided for those interested.

H. ICE Updates: Holly Lundgren

- a. Late August a SEVIS web based training for DSO's was implemented. It is now available on the ICE website: <http://www.ice.gov/graphics/sevis/schools/index.htm>
- b. Hurricane Katrina efforts: ICE is working with institutions affected by displaced students. Contact Kim with any questions regarding displaced students.

I. Panel Answers to Questions Sent In Before the Meeting * CBP: Addressed by Panel

Question 1: Is it still true that appointments ARE NOT necessary for TN applications at San Ysidro? Is it better to apply during normal business hours or during off-peak hours?

Answer: Yes and No. An appointment system was in place about a year ago.

- ✓ Officers were trained and the appointment system was no longer used.
- ✓ Given the current officer turnover, and that with the ongoing training it is still not very familiar to them, the appointment system will be implemented once again but only for TN's.
- ✓ They will have one officer to deal with TN's.
- ✓ Students should be entering from Mexico.
- ✓ An email has been sent to AILA (The American Immigration Lawyers Association) regarding how to deal with the TN's and currently awaiting a response with comments.
- ✓ Any concerns please contact the Special Cases officer Maria Flores Phone# 619-662-2238 *
Hours: M-F 8:00am -4:00pm

Question 2: Can a student with an approved extension of status or change of status travel to and from Mexico by foot if their I-94 is not taken? I have told students it is not advised.

Answer: Yes. They can encounter problems depending on the country they are from, visa, and especially change of status students.

- ✓ It is the same by car or in person.
- ✓ Visa revalidation is processed if applicable.
- ✓ Please advise against travel.

Question 3: Can a Canadian student who has completed their program travel to Mexico and reenter as a tourist? If yes, what documents are required?

Answer: Yes, they may reenter as a tourist.

- ✓ They will need a Canadian passport or birth certificate.
- ✓ Please keep in mind that they are subject to secondary inspection and entry could be refused, if the officers feel that their entry is a plan to continue living in the US.

Question 4: What about F-1 students or J-1 scholars of other nationalities? Do you view it as problematic if they want to exit the US and re-enter at the border as a tourist precisely because they have completed their program and want more time than the grace period allows for purely tourist activities?

Answer: Entry is always subject to the inspector.

- ✓ If it appears that the purpose is not proper entry can be refused.
- ✓ It is very hard to predict. It depends on the inspector, and the circumstances of the situation.
- ✓ It is no different between Canadians and people from other nationalities, except that the Canadians do not have the paper trail that the other nationalities have.

Q 4 cont'd - by Audience - This is assuming that the person seeking entry is from a visa waiver country or has a B visa in the passport, correct?

Answer:

- ✓ It is okay to apply for entry if a B1/B2 visa is in the passport or the person is from a visa waiver country; however it depends on the inspector. A visa does not guarantee entry.
- ✓ If the person does not have a B1/B2 visa and is not from a visa waiver country, they can not apply for entry. They would have to apply for Change of Status through the California Service Center (CSC) while in the US.

Question 5: What is the usual procedure for handling re-entry of F-1 students or J-1 scholars at the border when they forget one of their documents? If they have evidence like an institution ID card, and a valid passport, will you I-515 them?

Answer: It depends on the inspector.

- ✓ An I-515 will be issued in cases where applicable, such as a missing I-20 or DS2019.
- ✓ An I-515 will not be issued in cases where the visa or passport are the missing documents.
- ✓ If other documents are missing sometimes a discretionary waiver is issued and a fee is charged. The inspector needs to verify that these documents do exist and are valid.

Question 6: Why do CBP officers continue to stamp I-94's with a duration of one year for M-1 students rather than 30 days from their I-20 end date when they do not have a one year I-20? It causes confusion for the student.

Answer: We were not aware that this was happening.

- ✓ It is an incorrect procedure.
- ✓ Deferred inspections can fix the I-94 issue.
- ✓ New officers are being trained to give an extra 30 days after the I-20 end date, but maximum time is 1 year.

Q 6 cont'd - by Audience: Is there a contact number for someone to resolve this? It is happening too often at the POE's. Approximately 60% of the time, from LAX, New York and even San Diego.

Answer:

- ✓ We will fix the situation at our ports first and try to find a contact to handle the other ports.

Question 7: This seems to be an ongoing issue: Sometimes students are not getting their I-20 stamped when they enter the US. Once here they want to visit Mexico. When they re-enter the US the officers at the border ask them many questions and allow them to re-enter only after significant delays because their I-20 has no stamp. Why does this happen and what can we do to avoid this?

Answer: At the San Diego POE when a person applies for entry, they are processed and SEVIS is updated accordingly.

- ✓ All people must be questioned. It depends on the officers discretion as to how many questions it will take to determine whether to let this person enter or not.

Q 7 cont'd - by Audience: The issue is that students are issued new I-20's when they apply for CPT, OPT, Transfer, etc. Students are experiencing delays as they are being reinspected and charged a \$6 fee. The I-20's being issued are not initial I-20s. They are a continuance of the previous I-20. Do you advise that they take their previous I-20's with them? Should we send them to deferred inspections for a stamp?

Answer: If they are in the US it is ok for them to not have a stamp on the I-20.

- ✓ If they are out of the US they would be applying for re-entry every time they want to cross back, and will be reinspected.
- ✓ Right now they will be reinspected, get the new stamp, and be charged the fee.
- ✓ This process can take anywhere from 5 minutes to 5 hours, depending on the inspector.
- ✓ One officer advised that they do take the previous I-20 with them, and one officer advised against it.
- ✓ Deferred inspections is only for correcting errors at the POE. They do not stamp continued attendance I-20's.

**Jane Kalionzes commented that PIER had spoken to Adel Fasano at a previous meeting about this situation and that Ms. Fasano stated that it would be ok for students/scholars to come in and out without the red stamp. It was requested by Mr. Marco Jimenez that the minutes for that particular meeting be faxed to him @ 661-3378 for further discussion with Ms. Fasano.*

Question 8: We continue to have scholars that experience problems when re-entering the US via San Ysidro using automatic revalidation when they have successfully changed status in the US from (usually) F-1 to J-1 or from J-1 to H-1b. Can you provide any updates addressing this issue?

Answer: It depends on what country they are from. Secondary Inspection delay is not a problem.

J. Answers to Questions Sent In Before the Meeting * CIS/CSC: Addressed by Chuck Kotkin.

Chuck Kotkin: Apologized for not having the answers to the questions submitted. He mentioned that sometimes the visas issued are the wrong ones and that he is working with Sandra Raynes to fix this problem.

Announcements:

- ✓ Interim EAD's: 90 days have passed and CSC has not sent a Request For Evidence (RFE) he will issue a temp card.
- ✓ If an RFE has been issued he is not allowed to issue a temp card.
- ✓ If the card has already been produced (can verify by checking online) he is not allowed to issue a temporary card.
- ✓ There is a two week timeframe in the card being produced after CSC approval.
- ✓ The purpose of the temp EAD card is to alleviate CSC's backlog.
- ✓ If an RFE has been issued or is pending do not send the students for a temp card.

a. Interim EAD requirements have changed. The following package should be prepared:

1. I-765 Copy = but have student sign the form again. Need Original Signature
2. I-94 card = Original + 1 copy
3. Visa = Original + 1 copy
4. Passport Validity = Original + 1 copy
5. I-20 = Original + 1 copy

Announcements:

- ✓ Reinstatements pending for a long time (currently has 30) should be canceled if they do not require reinstatement for whatever reason.
- ✓ If you have trouble canceling contact the SEVIS Help Desk.
- ✓ Students should pay the reinstatement fee first in room B-268.
- ✓ Prepare your students. Inform them to pay first before they go up to see him, and to have their package ready.
- ✓ Inform students that their letter is to be taken seriously and is a very important requirement. His decision is based on their letter and interview.
- ✓ If a package is prepared well and it is clearly DSO error he will not require an interview.

- a. Reinstatement requirements have changed. The following package should be prepared:
1. I-539
 2. Student Letter = Original (typed), with chronological account of time here as a student.
 3. DSO Letter = Original + 1 copy
 4. I-20 = Original + 1 copy
 5. Visa = Original + 1 copy
 6. Passport = Original + 1 copy
 7. I-94 Card = Original + 1 copy
 8. Financial Documentation = Letter from school stating that requirement has been satisfied.
 9. Transcripts = Must be official.

Question 1: Can two I-20's be combined for OPT if the student has departed the US and re-entered on a new I-20 (rather than applying for an extension of visa status at CSC)? The student has continued their studies from one program to another the only difference is they have two different SEVIS ID numbers.

Answer: This question was submitted by Chuck Kotkin to Region for clarification. An answer will be forwarded to the PIER members upon receipt.

Question 2: If CIS/CSC receives an I-765 application before the student's I-20 end date, and the dates requested are within the grace period but it takes 90days before the EAD is issued, is the student legally in the US? Also, will the adjudicating officer issue the EAD with dates in the past or a date from the day of adjudication? What if adjudication is past the grace period?

Answer: This question was submitted by Chuck Kotkin to Region for clarification. An answer will be forwarded to the PIER members upon receipt.

11/2005 Answer: Yes, as long as the application is timely filed (should be before the completion end date). We do not back date. We use date of adjudication or future recommended date.

Question 3: Recently several RFE's have been sent requesting that the SEVIS fee be paid when a student has an extension of visa status on an I-20 that was issued prior to September 1, 2004. Why is this being requested? How can this be resolved? It is my understanding from the regulations that the SEVIS payment does not need to be paid by continuing students who have maintained their status. .

Answer: This question was submitted by Chuck Kotkin to Region for clarification. An answer will be forwarded to the PIER members upon receipt.

11/2005 Answer: Continuing students do not need to pay the fee. Do you have a particular WAC number so we can instruct or educate the officer(s) asking for this type of RFE?

Question 4: With the new “crackdown” on community colleges not being able to issue I-20’s for students who want to pursue a certificate program, students will need to indicate their intent to pursue the associate degree or transfer to a four year university. The question is, if students complete requirements for a certificate, can they still apply for OPT?

Answer: This question was submitted by Chuck Kotkin to Region for clarification. An answer will be forwarded to the PIER members upon receipt.

11/2005 Answer: Students are eligible for OPT if they are taking a course of study leading to a degree.

Q 4 cont’d - by Audience: Could we also get clarification on how “official” this information is (the not being able to issue I-20’s for students who want to pursue a certificate program). Several members expressed concern over the fact that they have received ‘threatening’ phone calls from officers stating that if they do not remove the certificate portion from their I-17’s their school will not be re-certified.

Answer: Those who received these calls please send an email to Chuck Kotkin, and he will verify with SEVP.

Question 5: Several of our F-1 international students have been asked by staff at the DMV to get their ‘status verified’ down at immigration. They imply this will speed up the process of them being able to get their driver’s license. Can we send students down to your office for this verification? If so, where should they go and what exactly will they be given?

Answer: In these cases, the students should come to the Federal Building and go to Room B-268 (one floor below the lobby) to the SAVE office. The SAVE office is next door to deferred inspections.

Question 6: If an alien applies for AOS at the Texas Service Center, then moves to San Diego and files the AR-11, is his application automatically transferred to CSC, or will it be transferred only upon request? Does the transfer slow down processing time? Since the processing times are now shorter, is it OK, if this person was to now live in San Diego and leave his application in Texas for processing (fingerprints already done).

Answer: This question was sent to CSC for clarification. An answer will be forwarded to the PIER members upon receipt. –

11/2005 Answer: This question was sent to CSC for clarification. If an alien applies for AOS at one Service Center and then moves to the jurisdiction of another Service Center, his AOS application can be processed at either Service Center. The transferring of the A file will generally slow down the processing of AOS. Therefore, if everything is good to go - then the AOS can be adjudicated at its current location. Sometimes, the processing times are faster at one Service Center than another. In such cases, it is up to the adjudicator to decide.

Question 7: We recently had a doctoral student graduate 7/31, apply for F-1 OPT in mid April. He had a postdoctoral position beginning at UC Berkeley on 8/1. He had not received the EAD by that date so we sent him down for a temporary EAD on 8/2. After we had sent him downtown we received notice that Interim EAD's would not be issued that week at the downtown office, and that he had to wait for two weeks. By the time he went back, the system showed his EAD had been approved on 7/28 (this was not listed on the online case status website) and he was told an interim card could not be produced (standard procedure). However, the online case status website then showed that the EAD was approved on 8/17 (not 7/28) and a card was just being issued. Scholar eventually received the card on 8/24. Can we have a backup system in place for having interim EAD's issued at the Chula Vista office to avoid situations like this? Scholar's position at UC Berkeley was jeopardized due to the delay in addition to his being ineligible to work for almost 4 weeks.

Answer: We will make sure that a backup system is in place and we will inform PIER about backup details as this becomes necessary.

K. Answers to Questions Sent In Before the Meeting * ICE: Addressed by Kerri Castillo.

Question 1: 50% of the time our M-1 students have their I-94's and I-20's stamped with a date certain of one year from their arrival date when in fact, their I-20 has an end date of 6 months from their arrival date. I explain to the student that their status is based on their I-20 and maintaining status as a full time student, not the date on the I-94. The students do not believe me. My question is: If a student stays beyond their I-20 status (no application for a benefit has been filed at CIS) what are the circumstances for staying beyond status?

Answer: If the individual stays beyond their student status and have not filed any petitions to adjust their status, they would be amenable to removal.

- ✓ When the student is out of status and they come into contact with ICE, they would likely be served with a Notice to Appear (NTA) for proceedings before an Immigration Judge.
- ✓ They could be arrested, and if they are from a visa waiver country, they would no longer be eligible for any visa waiver benefits.

Question 2: M-1 students who add another program to continue their studies often return home and reenter on an initial I-20 rather than apply for an extension of visa status at the service center. The student has a valid visa. My question is, if a student has already paid the SEVIS fee for an I-20, with a different SEVIS ID #, do they have to pay the SEVIS fee again? If no, what documents would you like to see? (The previous SEVIS fee payment, a copy of their previous I-20?) If yes, what will happen if the student has not paid the SEVIS fee?

Answer: Local ICE offices do not collect SEVIS fees or set regulations for the collection of those fees. We are attempting to address this question with our Headquarters counterparts in Washington DC. We will forward a response to the PIER members as soon as we receive clarification.

L. Answers to Questions Sent In Before the Meeting * TJ Consulate: addressed by Sandra R.

Question 1: Is there a way for 3rd country national visa applicants to know in advance whether any lengthy security clearance checks will be necessary? (Recently we had a Chinese scholar who was told at her visa interview in Tijuana that she had to wait for a security clearance. Her husband however, obtained his visa the same day. The husband could then reenter the US but his wife had to find accommodations in Tijuana and wait for the security checks to clear.)

Answer: There is no procedure or process in which a VISA applicant may be alerted as to whether he/she will require a security clearance in advance.

- ✓ This information is very sensitive and we can't really advise do or don't send them.
- ✓ Research your cases before you send them down.
- ✓ They could be stranded in Mexico 6 weeks to 3 months.
- ✓ Tijuana is very cautious on processing of security clearance country nationals.

Announcements:

- ✓ End of October MINACS (system used to schedule appointments for 3rd country nationals) will no longer be used.
- ✓ New company (current system used to schedule appointments for Mexican nationals) will start scheduling appointments for TCN (Third Country Nationals)
- ✓ No changes in appointment system yet. In about a month new numbers will be
- ✓ Any snags in the transition please email Sandra.
- ✓ F3 status does not exist.
- ✓ Tijuana issued 23 F3 visas and should all be expired or will soon expire.
- ✓ If you have any students who were issued an F3 visa and it is not yet expired, you may send Sandra and email to set up a re issuance of an F1.
- ✓ Sandra is still waiting for a list from any school (mostly from Southwestern College) with the student's information of those who were issued F3 visas and are not yet expired.
- ✓ Since April she was told it would take approximately six months before the regulations came out for the F3 visas, however she has not heard any feedback yet, and they are still working on the regulations at this time.
- ✓ F3 visas will be re-issued as F1 with Border Commuter annotation on the I-20.

Audience: Clarification whether F3 could study full time or part time?

Marco Jimenez: It was their understanding that the F3 visas were commuter students and that the students would be crossing back and forth from Mexico and Canada, and could study either.

Audience: Clarification of the TCN F1 renewal procedure:

Sandra: No Attorneys. They must stay outside in the patio.

1. Appointments are currently 3 to 4 weeks out.
2. Must appear at least 30 minutes before appointment at the Consulate.
3. All documents must be completed: DS156-157-158
4. They will then be called to process the enrollment. They will take their photo and a biometric fingerprint.
5. All checks begin in the system after the biometric fingerprint is taken.
6. Officer will then interview them either on time or they might wait a little bit. An F1 visa interview will be conducted.
7. Must bring Transcripts, I-20, SEVIS Fee receipt.

8. Technological Alert List is also checked.

Audience: Are the current visas canceled even if the renewal is denied.

Sandra: Yes, Expired visas are always canceled without prejudice. It is in the new regulations.

✓ Also a stamp is placed in the passport to alter the port of entry that this person was just at the consulate and that the visa renewal was denied.

Audience: Would it be canceled even if they are from an automatic revalidation country? What if they do not qualify?

Sandra: They are then traveling at their own risk.

Kim Jackson: Any information on applications for E3 visas from Australia?

Sandra: No answer yet. There will be a conference in 3 weeks in Mexico, and we are hoping to get clarification then.

Audience: Clarification on the online courses to meet full time status requirement. Is it one course or 3 units? Example: Student has 9 semester units in class + 1 semester unit online course + 2 semester unit online course. Is this ok?

Chuck: Send me an email and I will look into it.

Audience: Consensus is 1 online course.

Jane K: Will Tijuana process J2 to F1 with 2 year residency requirements?

Sandra: Yes we will process.

Kasey: What about M to F or F to M

Sandra: Yes, we will process all visa types; however we are on alert for B visas.

M. Meeting Adjourned: Kim adjourned the meeting at 12:00 noon.

Respectfully submitted,

Melissa Diaz

PIER Secretary 2005-2006