

Siskind's Immigration Bulletin
December 2, 2003

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Siskind Susser serves immigration clients throughout the world from its offices in the US, Canada, Mexico, Argentina and the People's Republic of China. To schedule a telephone or in-person consultation with the firm, go to <http://www.visalaw.com/intake.html>. Editor: Greg Siskind. Associate Editor: Esther Schachter. Contributors: Penny Egel, Paola Palazzolo, Maryam Tanhaee and Megan Turngren.

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1. Openers

Dear Readers:

We hope everyone had a happy Thanksgiving Holiday. We are pleased this week to present an article by our own Jack Richbourg that was recently published in the University of Memphis Law Review on the interplay between security issues and immigration law. The article provides a very interesting historical review showing how American previously handled similar problems to what we see today. Those who think that the immigration issues we face today are unique to our times will likely find the article interesting food for thought. Similar security concerns have worked themselves into US immigration policy since the very founding of this country.

There is also important news on special registration to report this week. We have just seen shortly before press time the notice to be published in the Federal Register tomorrow doing away with the current NSEERS call in program. The notice is quite lengthy, but, in short, the universal registration program for covered nationalities is being replaced by one where the Department of Homeland Security will determine on a case by case basis who will need to come in for interviews.

We also include this week the third flowchart in our J-1 series. This one lays out visually how J-1 waivers based on interested government agencies are handled. We hope readers find it helpful. We also include important news on the settlement of late amnesty class actions and news on a new report showing how US immigration policies will play a crucial role in ensuring the country can meet its needs in science, engineering in technology.

Finally, as always, we remind readers that we're lawyers who make our living representing immigration clients and employers seeking to comply with immigration laws. We would love to discuss becoming your law firm. Just go to <http://www.visalaw.com/intake.html> to request an appointment or call us at 800-748-3819 or 901-682-6455.

Regards,

Greg Siskind

2. The ABC's Of Immigration – J-1 Flowchart Part III: Interested Government Agency Waivers for Non-Physicians

This is the third in a series of flowcharts for J-1 visa holders with a two-year home residency requirement. The flowchart linked below shows how non-physicians can get a waiver from an Interested Government Agency (IGA).

J-1 Interested Government Agency (Non-Physician) Flowchart:
<http://www.visalaw.com/O3dec1/nonphysicianIGA.pdf>

3. Ask Visalaw.com

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

Q - My parents divorced when I was a child and I stayed with my mother. Later, my father re-married (I was about 8 years old at that time). Can I, as a US citizen over 21 years of age, petition for both my father and his second wife to come to US (under parents of US citizens category)?

A - Yes, you can petition for step-parents. Step-parents are treated as biological parents for immigration purposes as long as the relationship with the step-child was created before the child turned 18 years of age. That would cover your situation.

Q - I have a question regarding my daughter, who was born in the USA and has a US passport. I have an O-1 visa and my wife has an O-3. Do I need to do further paperwork to complete her citizenship process?

A - Your daughter is automatically a citizen because she was born in the US. You need do nothing more. If she needs a US passport, you would just apply for it and supply a certified copy of her birth certificate. Note that your daughter's citizenship status does NOT entitle her to apply for a green card for you and your wife until your daughter turns 21.

Q - What do people who broker fake marriage risk?

A - Prison. Don't do it.

Q - My wife applied for reentry permit in January 1998 and she left the USA. While she was in Pakistan she got reentry permit for 2 years. And then came back to USA a week before reentry permit expiration. Technically she spent more than 2 yrs as she left before approval of reentry permit. My question is when she can apply for citizenship. Some say four years and some say five. I am not a citizen.

A - Your wife will need to meet several residency tests -

1. At least 90 days living in the district where she is applying;
2. At least two years and six months total time spent in the US in the five years prior to the application being submitted;
3. No break in continuous residence (continuous absences from the US of more than six months are PRESUMED to break residency and absences of more than a year definitely are a problem unless the government has pre-approved an application to preserve residency)

The date of approval of the reentry permit is not relevant. Just the actual dates in and out of the US.

Q - My closed friend is married with an American citizen four years ago. They have a young child. Her current visa status is a conditional permanent residence. The problem is her husband likely to batter or mentally abuse her. Her husband does not like her to go, socialize or get along with her American friends or friends from her home country. He does not allow her to learn driving a car or to work even though they live in a poor condition. He always threatens her to deport her anytime she speaks up. Her husband even does not really like his child and he considers the boy is a nuisance. The boy is not closed and afraid to his father. He also threatens that he will take away the kid in a hidden place if my friend doesn't comply what he wants. My friend has called the national domestic violence hotline, and the national domestic violence has visited my friend and the boy several times, and the worker has advised her to go to their shelter. Anyway, she is now worried if she goes to that shelter her husband might report to the police that she has kidnapped the child. My question is whether in the above situation my friend can be considered of kidnapping her own child? Can my friend file a self-petition to remove her conditional residence?

A - Under these circumstances, your friend can file her I-751 application with a request to waive having her husband file jointly with her. She'll need to get a divorce lawyer to get the divorce first, however. The fact that they have been married several years and the fact that they have a child will look very good. Tell your friend not to worry about going to a shelter. This will in no way hurt her chances of getting an unconditional green card. She should check with the local bar association in her community to see if she can get free or reduced-fee legal assistance.

Q - Our son was on an H-4 visa while he was studying here but we had to convert this to an F-1 visa when he aged out. He finished his associate degree here and decided to leave the country. He now wants to finish his four-year degree in a university in the US and we have applied for his admission as an international student.

He has to leave our home country in a week's time but we haven't received the approval of his papers yet. Can he apply for a B1/B2 visa and as soon as we get the I-20 from the university, we will apply for the F1 visa when he gets here?

A - After September 11, 2001, changing a status from the B1/B2 to F-1 in the United States became next to impossible. The only instance when it is possible and comparatively easier is when the person obtains a B1/B2 visa that is annotated "prospective student" from the American Consulate that he applied for a visa at. This can be done if he tells the visa officer that he is going to study in the US but is not sure at what school and therefore will need to enter as a B1/B2. It is a hard to get such a visa and complicates matters. Therefore we typically recommend waiting for the I-20 that the school will issue and then applying for an F-1 visa. Keep in

mind that an F-1 may enter the US only 30 days from the "report to" date on his I-20.

4. Border and Enforcement News

The Department of State (DOS) has received a permit application authorizing the construction, operation and maintenance of an international toll bridge in the Laredo, TX area. The permit is for a new crossing of the Rio Grande 9.2 miles downstream from the exiting Gateway to the Americas Bridge.

Immigration and Customs Enforcement (ICE) has confirmed that David Hudak, a Canadian counterterrorism expert, was in custody and is awaiting his deportation hearing. An agency spokesman said he violated the terms of his visitor's visa by working for his own US company.

Hudak was previously cleared of federal charges regarding his Roswell training programs. He was accused of four counts of exporting defense services or training without a license, two counts of using explosives during the commission of a felony, one count of conspiracy to export training, one count of being an alien in possession of a firearm and one count of possessing an unregistered destructive device.

Canadian Solicitor General Wayne Easter and US Attorney General John Ashcroft announced the creation of two more Integrated Border Enforcement Teams (IBETs) to improve security for the Canada-US border. A Superior Region IBET will cover the Ontario, Michigan and Minnesota borders while an Okanagan Region IBET will cover British Columbia and Washington State.

IBETs are multi-agency teams that combine US and Canadian law enforcement, immigration and customs officials and local, state and provincial enforcement agencies. These teams are strategically located along the Canada-US border to ensure that it remains open to trade and travel, but secure against criminals or terrorists attempting to cross the border.

In December 1981, according to a US Executive Order, all US passports were declared invalid for travel to, in or through Libya unless they were specially validated for such travel. This restriction has been renewed each year due to the relations between the US and Libya and the possibility of hostile actions against Americans in Libya. As of November 24, 2003, the Secretary of State has renewed this travel restriction.

Hawaii State Governor Linda Lingle has declared the need for a special "Hawaii-only" visa exemption to new, stricter visa requirements. Lingle stated that her office

receives daily complaints or requests for help from business and educational travelers who are having problems obtaining visas due to the detailed security and background checks on foreigners conducted by immigration officials.

Lingle said she plans to lobby for a special Hawaii-only visa. The proposed program will allow people to come to Hawaii from other countries even if they are not allowed to continue on to other parts of the US. Lingle said she will bring up the request with Homeland Security Director Tom Ridge when she meets with him in Washington, DC on December 10.

5. News From The Courts

Chery v. Ashcroft
U.S. Court of Appeals for the 2nd Circuit
2003 U.S. App. LEXIS 21025

Serge Chery, a citizen of Haiti and lawful permanent resident of the United States, was arrested in 1998 at age 33 for having consensual sexual intercourse with a 14-year-old girl. Chery was convicted of second-degree sexual assault and sentenced to five years imprisonment, with 18 months to serve and 10 years probation. Following this conviction, the INS informed Chery that he was subject to deportation as an alien who committed an aggravated felony, or a "crime of violence", under 8 U.S.C. § 1101(a)(43)(f). The immigration judge ordered removal because the sexual assault constituted an aggravated felony.

Chery appealed to the BIA claiming that second degree sexual assault under the Connecticut statute is not a "crime of violence" as defined by 18 U.S.C. § 16(b). The BIA upheld the immigration judge's ruling, stating that Chery's conviction, by its nature, involves a substantial risk that physical force against the victim may be used in the course of committing the offense. Chery then filed a habeas petition in the United States District Court for the District of Connecticut. The court granted the petition, ruling that Chery's felony conviction did not constitute a crime of violence.

The three-judge panel of the 2nd Circuit Court of Appeals reversed the district court's decision and ruled that a person convicted of statutory rape is considered to have committed a crime of violence even if the perpetrator did not actually physically harm the victim. The Court agreed with the BIA decision that held that a conviction under Connecticut's statutory rape law involved a substantial risk that physical force might be used against a victim in the course of committing an offense.

The Court added that other circuits have repeatedly recognized that when a sexual crime is committed against children, there is a substantial risk that physical force will be used to ensure compliance and that because the statute in question criminalizes sexual intercourse with a victim who, because of her age, is unable to truly give consent, the crime of statutory rape carried a substantial risk of physical force.

Gong Fu Li v. Ashcroft
U.S. Court of Appeals for the 5th Circuit

Filed November 21, 2003 No. 03-60242
(no citation provided)

Gong Fu Li, a native and citizen of the People's Republic of China, appealed to the 2nd Circuit for review of the Board of Immigration Appeal's summary affirmation of the Immigration Judge's decision denying his application for asylum and withholding of removal. Li argued that the IJ's ruling was not supported by substantial evidence because he is eligible for asylum and withholding of removal due to his wife's involuntary sterilization.

The Court held that under an assumption that Li's statements concerning his wife's sterilization were true, Li created a regulatory presumption that he had a well-founded fear of future persecution and that Li's life or freedom would be threatened in China in the future. In addition, no evidence was presented to rebut this presumption, such as evidence of changed country conditions or that Li could avoid persecution.

Due to this determination, the Court held that Li was eligible for asylum and withholding of removal. The IJ's conclusion that Li did not meet the statutory definition of refugee since Li left China for reasons other than his wife's sterilization was erroneous. The statutory definition of refugee does not require Li to have left China for any particular reason. In addition, Li was not required to demonstrate "compelling reasons for being unwilling to return resulting from the severity of the past persecution unless the presumption under 8 C.F.R. § 208.13(b)(1)(i) had been rebutted by the [INS]."

6. Government Processing Times

There are no new times to report this week.

7. News Bytes

A recent poll in Arizona shows a 59% of the 409 registered voters questioned support a guest-worker program proposed by three members of the state's congressional delegation. The legislation would provide visas for workers entering the country legally who would be matched with employers. The workers could apply for permanent residency after three years.

Workers who have entered the country illegally would have to register with the government and pay a \$1,500 fine. These individuals would have to work two three-year periods before being able to apply for permanent residency.

The results of the poll shocked Kathy McKee, the leader of the Protect Arizona Now initiative drive, which would require the state to deny many services to those not here legally. She claims that those surveyed do not understand that the proposed legislation amounts to amnesty for those who have broken the law by entering the country illegally.

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The consulate in Tunis is now handling immigrant visa processing for Libya and Algeria.

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Victor X. Cerda has been named the Acting Principal Legal Adviser to the Assistant Secretary of Homeland Security. Cerda had been serving as the Chief of Staff for U.S. Immigration and Customs Enforcement within the Department of Homeland Security. In his new position, Cerda oversees over 600 lawyers nationwide who represent the DHS in removal proceedings and advises enforcement officials within ICE.

* * * * *

The Washington Farm Bureau is backing two bills currently before Congress that would make changes to the guest worker program for workers already in the country and offer immigrant workers a special visa and the chance to apply for legal permanent resident status.

Recent federal raids of Wal-Mart stores have motivated farmers to take action, as there are thoughts that agriculture might be next. It is estimated that in Washington there are as many as 100,000 undocumented workers. Washington has a higher minimum wage than most states, as well as many crops that must be handpicked.

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Thousands of foreign nationals have complained about the people who staff the toll-free phone line provided by the immigration agency, saying they provided wrong information. The immigration service established the line in late 1999 to make it easier for foreign nationals to find out the status of their cases.

In June, authorities shifted almost all calls about the status of cases to the customer-service line rather than letting some officers at regional document-processing centers handle some, pushing the number of calls up to more than 50,000 calls a day. Private contractors provide employees to staff the line, under an agreement with the Department of Homeland Security.

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The United States Consulate in Istanbul has suspended its visa operations. It remains fully staffed to provide any emergency services necessary to American citizens.

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The Department of Labor has informed the American Immigration Lawyers Association that it does not expect the PERM labor certification regulation to be published until early 2004 and for regulation to take effect 120 days after its publication.

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Because of a lack of resources, the United States Chamber of Commerce is calling for a reexamination of American visa policies that may be damaging the U.S. economy by putting too many restrictions on the free movement of legitimate travelers. The Chamber is saying that there needs to be a balance between keeping the nation safe and not setting hurdles for international travelers because so many industries depend on overseas travel.

Currently, the State Department Consular officers conduct face-to-face interviews with every visa applicant, creating backlogs and delays for travelers from many countries with which the U.S. has business relations. Beginning next year with the U.S. VISIT program, fingerprints will be required from every applicant.

There has been a drop in the number of visas issued since 2001 for visitors to the United States, from 6.9 million to 4.9 million. Visa applications have decreased 15% from 2002 to 2003. Starting in October 2004, visitors from Visa Waiver countries will be required to have machine-readable passports, although the United States itself is unable to make that deadline. International travel into the United States yields \$70 billion annually to the economy.

8. International Roundup

Investigators say that foreign extremists have taken advantage of Turkey's lax border security, liberal visa policies and networks dedicated to smuggling immigrants into Europe.

The twin bombings in Istanbul, Turkey sent a message, some security officials comment, to the US and its allies that the terrorist network has the power to strike despite tight local and international security.

124 illegal Afghan immigrants were rounded up and deported in Quetta, Pakistan, due to international pressure on Pakistan to stop Taliban extremists from operating in its border regions. These were among the approximately 550 Afghans who have been arrested over the last 10 days.

During his official visit to Italy, Israeli Prime Minister Ariel Sharon told European Jewry that the best way to fight anti-Semitism is to immigrate to Israel, as it is "the only place on earth where Jews can live as Jews." Some worry that Sharon's vision is to relocate Jews to settlements in the West Bank and Gaza Strip, lands claimed by the Palestinians. Sharon has repeatedly made his desire to bring an additional one million Jews to Israel a central platform of his government.

Israeli Foreign Minister Silvan Shalom blames the terrorist attacks in Istanbul in part on anti-Jewish sentiment in Europe. A recent poll of Europeans listed Israel as the number one threat to peace in the world.

9. Legislative Update

On November 12, the Senate passed S.1685 to extend the employment eligibility pilot program for five years and to expand it to all 50 states. Attached to this bill was a measure to extend the EB-5 regional centers for an additional five years.

For a review of all the immigration bills introduced this year, visit our legislative chart at www.visalaw.com/advocacy.html.

10. Guest Article - Liberty and Security: The Yin and Yang of Immigration Law, by John S. Richbourg

The following article recently appeared in the Law Review. Mr. Richbourg is an attorney in Siskind Susser's Memphis office and can be reached at jrichbourg@visalaw.com.

<http://www.visalaw.com/03dec1/libertyandsecurity.pdf>

11. Alleged Nazi to Be Deported

Polish-born Jakiw Palij is facing deportation after federal investigators discovered he was a Nazi guard at the Treblinka death camp in Nazi-occupied Poland during 1943, when approximately 6,000 Jews were killed and buried in pits. The Justice Department also claims that Palij worked at the nearby Trawniki training camps for secret service troops trained to carry out the extermination of Polish Jews.

In July, a federal immigration judge revoked Palij's citizenship for falsely claiming on his 1949 immigration paperwork that he worked on his father's farm in Poland and at a German factory during the period when he was actually serving the Nazis. Palij served with as a Nazi guard until the last weeks of the war in April 1945. He emigrated here in 1949 at age 26 as a refugee of World War II. Palij claimed that he did not enter the U.S. to save his life, but he came to America because he had nowhere else to go after spending five years in a refugee camp in Germany.

Palij states that Nazis came to his town, Piadyki, when he was 18 years old to force him and other men to be guards, or else the men and their families would be killed. He claims that he was responsible for patrolling roads and bridges at night, insisting that he never took part in any killings or atrocities during the war. However, federal officials do not accuse him of taking part in these acts, but believe by that by cooperating as a Nazi guard he directly contributed to the eventual slaughter of Jews by either forcing prisoners to work or preventing them from escaping.

Rabbi Marvin Hier, dean and founder of the Simon Wiesenthal Center, which helps bring former Nazi war criminals to justice, was not persuaded by Palij's arguments, stating that Nazis only took people they knew to be loyal and brutal. Hier also noted that war criminals often state a common occupation when they were being trained to horrible things.

Since 1979, the Justice Department investigations have resulted in 73 former Nazis' being stripped of United States citizenship, while 59 former Nazis have been deported.

12. Memorandum Sent to ETA Officers Regarding Labor Certification Backlog

Several regional offices of the Division of Foreign Labor Certification of the Employment and Training Administration (ETA) have had a substantial backlog of Reduction in Recruitment (RIR) cases, especially those cases that involve information technology jobs. Therefore, the head of the Division of Foreign Labor Certification issued a memorandum regarding the need and procedure for reducing this backlog of cases.

The memorandum outlines the procedures to guide Regional Certifying Officers as they review and process RIR requests. The Initial Review Provision stipulates "all RIR applications must be reviewed based on criteria for completeness of the application, demonstration of a pattern of recruitment and compliance with applicable regulations." Certifying Officers have the discretion to deny an RIR request at this stage of the review process.

Applications that do not meet the completeness and/or compliance regulations may be issued a Notice of Finding (NOF). Those applications that do meet the requirements, and the employment position requires a Bachelor's Degree and three or more years of experience or requiring a Master's Degree and six months of experience, will be certified and not subject to the retest provisions. Applications that meet the requirements, but do not require the degree and experience criteria will be analyzed to determine if further recruitment is unnecessary.

The Retest Provision allows the certifying officer to send a letter to the employer and/or attorney of record which offers several options, which include completely withdrawing the application, withdrawing the RIR request and remand the case to the State Workforce Agency (SWA) or conducting a one-day 'retest' of the labor market under the direction of the certifying officer.

In cases where additional recruitment is required to support an RIR application, the 'Look Back' Provision allows employers to utilize advertisements that it placed within the past six months. Employers who utilize this option will be required to provide a detailed recruitment report.

Employers who use the 'retest' option will be allowed to modify their applications, as long as these modifications do not change the occupational classification of the employment opportunity at the time the case was originally filed. Any adjustments must meet Department of Labor requirements.

13. Much of Special Registration Program Scrapped

The Department of Homeland Security will announce today that it is scrapping key aspects of the controversial National Security Entry/Exit Registration System (NSEERS) program, commonly referred to as "Special Registration." The program has required male nationals of more than two dozen countries (mostly in the Middle East) to report to Department of Homeland Security offices around the US to be fingerprinted, photographed and interviewed. Of the 70,000+ individuals interviewed, more than 13,000 have been placed in deportation proceedings.

Two aspects of the program will be scrapped. Those subject to the NSEERS rules must report in for processing within 30 days of entering the US as well as annually at a set time each year. Both of these requirements are being suspended under the new rules.

However, registration at ports of entry, at the time of departing the US and on a "case-by-case" basis, at DHS's discretion, will continue.

In place of the previous requirement, the new rule will allow DHS, as a matter of discretion, to notify individual nonimmigrant visitors subject to NSEERS registration to appear for one or more additional continuing registration interviews in those particular cases "where it may be necessary to determine whether the visitor is complying with the conditions of his or her nonimmigrant visa status and admission."

Individuals who were previously required to re-register will no longer have to register unless they are specifically called in to register as one of the "case-by-case" registrants.

The American Immigration Lawyers Association was pleased by the decision, though complained that it does not go far enough.

"While we are pleased that the Department has suspended some aspects of this failed program, the program in its entirety should be terminated. AILA long has maintained that NSEERS is a false solution to a real problem and does not make us safer. It was deeply flawed when it was implemented and remains flawed today, more than one year after its implementation. Furthermore, not one individual has been charged with terrorism as a result of this program," said Jeanne Butterfield, Executive Director of the American Immigration Lawyers Association (AILA).

"The changes DHS announced today demonstrate that the program has been a failure," said Judith Golub, AILA's Senior Director of Advocacy and Public Affairs. "We hope that DHS's actions today reflect their willingness to review other failed measures that the Department of Justice had initiated. These programs have not made us safer. What have they done? They have left immigrant communities feeling besieged, harmed our relations with foreign governments, and wasted precious resources. In fact, according to the DHS, the changes announced today will allow the agency to reallocate almost 62,000 work hours. Just think if they never had implemented this program, what a difference that many work hours could have made to a program that really enhanced our security," continued Golub.

Other immigration advocates questioned how successful the call in program will be, particularly if one does not receive notification to come in for questioning. The current system is at least predictable, such critics contend.

In its explanation of the new rule, the Department of Homeland Security addressed the issue of whether people required to re-register already who did not do so would be penalized. The answer to the question is yes, according to the DHS. Asked whether this is fair, the agency offered this comment:

“Is it fair that some of the walk-in registrants have to re-register under the threat of breaking the law when others whose one year anniversary that falls later won't have to do so and are not threatened as a result?”

Whenever a law or regulation is changed, it affects the activity required by people to be in compliance with the law; changing registration requirements is not unique in that regard. DHS will continue to have the ability to require visitors to check in periodically with the department and will need to use that tool on occasion so some visitors who are currently scheduled to re-register in April may still be asked to do so individually even after the new regulation eliminates the group re-registration requirement.”

The DHS claims that NSEERS was a success and believes that the SEVIS program to track foreign students and exchange visitors and the new US-VISIT entry-exit tracking program (which starts up next month), will “take care of most of the NSEERS requirements.”

14. Late Amnesty Litigation Class Notice of Settlements

The Center for Human Rights and Constitutional Law published information regarding the nationwide class action settlements in the late amnesty litigation cases titled *Catholic Social Services v. Ridge* and *Newman/LULAC v. BCIS*.

The Notice of Settlement for *Catholic Social Services v. Ridge* affects the rights of two groups of immigrants who may object to the proposed settlement. The proposed settlement grants members of these two groups a period of one year to apply for legalization under the 1986 IRCA. Those applicants who appear to be eligible for legalization will also be entitled to receive temporary employment authorization. These applications will not be used to deport applicants who are denied legalization. The full text of the proposed settlement is available for review at www.centerforhumanrights.org/CSSSettlement.pdf.

The first group is all those who were otherwise prima facie eligible for legalization under Section 245A of the INA and who presented completed applications for legalization under this section along with the appropriate fees to an INS officer or agent or Qualified Designated Entity (QDE) employee during the period from May 5, 1987 to May 4, 1988 and whose applications were rejected because an INS officer or QDE employee concluded that they had traveled outside the U.S. after November 6, 1986 without advance parole.

The second group is all those who filed for class membership under *Catholic Social Services, Inc. v. Reno*, CIV No. S-86-1343 LKK (E.D. Cal.), and who were otherwise prima facie eligible for legalization under Section 245A of the INA, who were informed that they were ineligible for legalization or were refused legalization because an INS officer or QDE employee concluded that they had traveled outside the U.S. after November 6, 1986 without advance parole, and for whom such information or inability to obtain the required forms was a substantial cause of their failure to timely file or complete a written application.

Class members who object to the proposed settlement must mail their written objections on or before December 29, 2003 to the following address:

Clerk (CSS Settlement Objection)
U.S. District Court for the Eastern District of California
501 I Street
Sacramento, CA 95814

Copies of the written objection must be mailed to both of the following addresses:

Peter A. Schey and Carlos Holguin
Center for Human Rights & Constitutional Law
256 S. Occidental Blvd.
Los Angeles, CA 90057

Earle B. Wilson
U.S. Department of Justice
Office of Immigration Litigation
P.O. Box 878 Ben Franklin Station
Washington, DC 20044

The Notice of Settlement for *Newman/LULAC v. BCIS* affects the rights of two groups of immigrants who may object to the proposed settlement. The proposed settlement grants members of these two groups a period of one year to apply for legalization under the 1986 IRCA. Those applicants who appear to be eligible for legalization will also be entitled to receive temporary employment authorization. These applications will not be used to deport applicants who are denied legalization. The full text of the proposed settlement is available for review at www.centerforhumanrights.org/NewmanSettlement.pdf.

The first group of immigrants is all those who are prima facie eligible for legalization under the 1986 IRCA who attempted to file an application with fees with INS or a Qualified Designated Entity (QDE) between May 5, 1987 and May 4, 1988 but had the application refused because they had traveled outside the U.S. and returned with a visitor's visa, student visa or other type of visa or travel document.

The second group is all those who applied for a work permit under the *LULAC/Newman* case, who are otherwise prima facie eligible for legalization under the 1986 IRCA and visited an INS or QDE office between May 5, 1987 to May 4, 1988 to apply for legalization without a complete application but were informed by and INS officer or QDE employee that they were ineligible for legalization because they had traveled outside of the U.S. and returned with a visitor's visa, student visa or other type of visa or travel document, or were refused by the INS or its QDE

legalization forms on account of that travel, and for whom such information, or inability to obtain the required application forms, was a substantial cause of their failure to timely file or complete a written application.

Class members who object to the proposed settlement must mail their written objections on or before December 29, 2003 to the following address:

Clerk (Newman Settlement Objection)
U.S. District Court for the Central District of California
312 N. Spring Street
Los Angeles, CA 90012

A copy of the written objection must be mailed to the following address:

Peter A. Schey and Carlos Holguin
Center for Human Rights & Constitutional Law
256 S. Occidental Blvd.
Los Angeles, CA 90057

More information on both class action settlements can be found at <http://uscis.gov/graphics/lawsregs/settlement.htm>

15. Report on Need to Accommodate Future Needs in Science, Engineering and Technology

After researching the issue for three years, the National Science Board released a report last week on the U.S. science and engineering workforce indicating an immediate need for action to ensure that future needs in science, engineering and technology fields are met.

The report said that a sampling from the 2000 census figures shows a larger than previously known percentage of degree-holding, foreign-born professionals working in the United States in science and engineering occupations, as well as a downturn in the number of H1-B visas (temporary worker in specialty occupations) issued to foreign-born professionals specializing in these industries.

A previous study by the National Science Foundation (NSF), with figures taken from the 1990 census, showed that of the total population of science and engineering classified occupations 11 percent of those who held bachelor's degrees were foreign-born. Of those who held master's degrees, foreign-born individuals represented 19 percent; of total Ph.D.s, 29 percent were foreign born.

The 2000 census figures allowed foreign-born workers who hold degrees not obtained in the United States to be counted. With this new information it was determined that the estimated proportions of foreign-born workers in science and engineering occupations in 1999 rose between six and 10 percent per category. The foreign-born proportion went up to 17 percent among those in science and engineering professions with bachelor's degrees, 29 percent among those with master's degrees and 38 percent among doctorate holders. This is due, in part, to a large demand for foreign-born scientists and engineers across most fields.

The National Science Board members that participated in the Press Club's discussion on the board's new report said that stakeholders must work to initiate efforts to increase the number of U.S. citizens working in science and engineering positions. These efforts should not, however, be at the expense of foreign-born talent that the U.S. needs and values.

The National Science Board made many recommendations for improving the state of the science and engineering industries, including offering considerable new support to undergraduate, graduate and postdoctoral students and learning institutions that provide incentives to those studying in these fields. The report recommended that instructors of these fields receive better compensation and training, as they provide an essential role in these professions.

The Board also suggested an effort to better understand international science and engineering dynamics and figure out the best way to balance the security requirements, and at the same time supporting policies that continue to attract foreign-born scientists and engineers.