**AILA Texas Chapter, Houston Section**

**Liaison Questions for**

**Customs and Border Protection Houston Field Office**

**January 7, 2022**

1. Please confirm what procedure is in place to present a parole extension request to CBP Houston Field Office (HFO)? Please confirm that Houston CBP office would entertain a request for parole extension for a person paroled at another port of entry but currently physically present within the jurisdiction of the Houston district. Acknowledging that eligibility for parole or extension of parole is dependent on the facts and circumstances of an individual case, what documentation, at a minimum, would CBP HFO require to be submitted with the request? (SG)

 CBP HFO Response: CBP normally grants parole for the period requested or necessary to accomplish the intended activity in the U.S. If it becomes necessary to extend a period of parole authorization contact the local CBP Liaison (currently Silvia Graves sgraves@graveslaw.org). Provide the current residential address of the parolee, the background on why parole originally was sought, the period initially provided by CBP, and the reasons the extension is required. The local CBP Liaison will present the extension request to CBP HFO which will evaluate the request on a case-by-case basis.

 CBP HFO will consider parole extension requests only for persons resident within its geographical jurisdiction.

1. Please clarify current procedure at the IAH and Houston Hobby ports regarding CBP Form 6059B. Historically travelers entering the United States via IAH have been required to complete either a paper Form 6059B or electronically via the Automated Passport Control kiosk. Members report that in recent months, customs declaration forms have not been required of some travelers either in paper form or when utilizing the Automated Passport Control kiosk. Furthermore, the Mobile Passport Control app allows a traveler to complete a customs declaration. Please confirm the procedure that should be followed if the traveler has goods or currency to declare but is not utilizing Mobile Passport Control and the Automated Passport Control kiosk does not provide the customs declaration questionnaire? (DV)

CBP HFO Response: CBP no longer uses Customs Declaration Forms. Should an individual have items to declare, announce this to the CBP inspecting officer in primary inspection. CBP officers may ask questions in a conversational manner that may not be the same as the structured set of questions that previously appeared on declaration forms but are designed to illicit responses that inform an officer whether further inspection is required.

1. What is the procedure to request a refund of a wrongful collection of the filing fee for an application for a visa waiver by CBP HFO? (SG)

 CBP HFO Response: To obtain a refund of a filing fee improperly gathered by CBP file a DHS-TRIP claim. <https://www.dhs.gov/dhs-trip> Only DHS TRIP can authorize a refund. However, when DHS RIP receives an inquiry, it will refer the matter to the local port of entry that gave rise to the matter. Currently, there is no backlog in CBP HFO responses to DHS TRIP inquiries.

 If there is an urgent need to bring an issue to the attention of the CBP HFO, contact the local CBP Liaison (currently Silvia Graves sgraves@graveslaw.org). Provide a short explanation of the nature of the issue, all relevant dates giving rise to the inquiry and the action requested. Concurrently file a DHS TRIP inquiry. This may expedite handling of the issue when it is referred to CBP HFO.

1. Please confirm that, pursuant to 8 CFR 211.1(a)(2), a lawful permanent resident seeking readmission after a temporary absence of absence of less than one year is not required to file an application for waiver of documentation requirements if presenting a valid, unexpired Form I-551.[[1]](#footnote-1)Would CBP HFO be willing to issue a Muster reminding officers of provisions of 8CFR 211.1? (JP)

CBP HFO Response: Officers are trained on matters pertaining to documentation requirements for immigrants and returning residents. Any interaction during the inspection process may cause an officer to delve deeper into circumstances relating to the absence and reentry to the U.S. of a resident.

1. Please confirm that a nonimmigrant may be readmitted (provided that the individual is otherwise eligible for admission) pursuant to 22 CFR 41.112(d), automatic visa revalidation, after an absence of not more than 30 days to contiguous territory, when a visa application appointment has been scheduled but not attended.[[2]](#footnote-2) (SG)

 CBP HFO Response: Given the nature of this legal issue, it is more appropriate to be addressed to CBP Headquarters.

1. Would CBP HFO issue a new Form I-94 for an H-4 dependent traveling with the H-1B spouse who is seeking readmission to the U.S. under the provisions of 22 CFR 112(d), automatic revalidation that grants the H-4 dependent the same period of admission as the H-1B nonimmigrant based on the H-1B holder's recent extension approval?[[3]](#footnote-3) For example:

H-1B and H-4 spouse are in the U.S. with status that is valid until February 1, 2022. H-1B employer files an extension and obtains I-797 approval with new I-94 extending H-1B status to February 1, 2025. No H-4 extension was filed or remains pending with USCIS. H-1B and H-4 together travel to Mexico with expired visas and seek to return utilizing automatic visa revalidation. The H-1B holder should be admitted until February 1, 2025. Will the H-4 also be admitted until this date? (JM)

 CBP HFO Response: No. Automatic Visa Revalidation applies only to the principal applicant. It does not apply to a family or to family dependents. Dependents are not eligible to enter under visa revalidation.

Given the nature of this legal issue, it is more appropriate to be addressed to CBP Headquarters.

 However, there may be certain, specific circumstances where filing a request for a documentation waiver under INA 212(d)(3) may be appropriate. This generally would be only situations where, for example, an individual filed an application for extension of status that remains pending, no visa appointments are available for an extended period and the travel abroad was emergent reason rather than discretionary.

1. Has CBP HFO received any guidance on the implementation of the settlement reached in the litigation in Federal District Court against the Department of Homeland Security[[4]](#footnote-4) as further articulated in the Policy Statement announced by USCIS[[5]](#footnote-5) for the annotation of Forms I-94 issued to L-2 and E dependent spouses indicating that they are authorized to engage in employment? What will be the form of the annotation? Has a date been announced for when the terms of the settlement and policy will be implemented? (KH)

 CBP HFO Response: No guidance has yet been issued by CBP HQ to ports of entry on the manner or means by which L-2 and E spouses will receive documentation demonstrating that they are authorized to engage in employment incident to status in order to comply with the requirements of Form I-9, Employment Eligibility Verification.

1. Is CBP HFO willing to accept faxed requests to correct admissions errors on Form I-94? If so, is 281-443-0241 still the best fax number? In the past, we had deferred inspection officers that allowed us to provide the information by email or fax before arriving at Deferred Inspection. The fact that the officers had the information early, allow them to check the record and expedite the corrections necessary. In this pandemic situation we all are and in the interest of everyone’s health and need for social distance, we would like CBP to reconsider this practice. (MC)

 CBP HFO Response: The fax number indicated above is used by four separate CBP teams including, for example, the team focused on inspecting and clearing agricultural products. Receiving voluminous immigration-related requests on that fax number may not receive immediate attention and could have a deleterious effect on clearance time for products arriving in the Houston region.

 However, if an attorney anticipates an individual will have complex issues to discuss at the port of entry upon arrival, sending documents in advance may allow the port to be aware of the issue and review associated legal issues in advance of an individual’s arrival.

 *Houston Section CBP Liaison Observation: If sending documents about a client to CBP in advance of the client’s arrival, be sure to include a Form G- 28 to permit CBP to speak with the attorney on behalf of the client. Also, be mindful that while CBP may agree to consider a legal issue in advance of the arrival of an individual at the port of entry, CBP will not make an advance determination of eligibility for admission. Such determinations are made only once an individual applies in person for admission at the port.*

1. Members report that CBP at Houston International Airport continues to advise E1/E2 applicants for admission under visa revalidation, that if they do not have an E1/E2 or a B2(!) visa, when they travel to the U.S., the investors will not be admitted next time. Are new officers trained on the eligibility of applicants under visa revalidation? 22 CFR 112(d)(2)(i) and (iv). (BB)

CBP HFO Response: Officers are trained on matters pertaining to documentation requirements for nonimmigrants. Any interaction during the inspection process may cause an officer to delve deeper into circumstances relating to the absence and reentry to the U.S. of a nonimmigrant.

1. This question arises from a recent incident at Bush International Airport when a resident alien who had been outside of the U.S. for over 180 days but less than one (1) year, due to COVID 19 travel restrictions in Germany, presented her valid I-551 card to CBP at Bush International Airport. She was sent to secondary inspection and told she must pay $500 to be admitted. The LPR paid the fee and was admitted. [↑](#footnote-ref-1)
2. Due to visa application appointment backlogs at many U.S. consular posts that have arisen due to the COVID-19 pandemic, visa appointments may be scheduled 6 to 12 months in the future. The CBP Website states, in pertinent part, that nonimmigrants who have applied for a new visa which has not yet been issued are not eligible to utilize 22 CFR 41.122(d). Scheduling a visa application appointment clearly is equivalent to “applying for a visa.” [↑](#footnote-ref-2)
3. 22 CFR 112(d)(2)(i) and (iv) require only that a nonimmigrant be in possession of a Form I-94 showing an unexpired period of initial admission or extension and is seeking readmission within the authorized period of the initial admission or extension. [↑](#footnote-ref-3)
4. Shergill v. DHS, reproduced at AILA Doc. No. 21111005. [↑](#footnote-ref-4)
5. USCIS PA-2021-25. [↑](#footnote-ref-5)