

IMMIGRATION NEWS: **NOVEMBER & DECEMBER 2007**



by

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North Carolina Community College System Announces Policy to Accept Undocumented Students: Last week, the North Carolina Community College system announced that all community colleges in North Carolina must accept undocumented students. Until last week, the decision as to whether or not to accept undocumented students was left to each individual community college system. Undocumented students must pay the out-of-state tuition rate.

This decision was supported by current Governor Mike Easley, but has been opposed by all five of the current candidates for North Carolina Governor. Apparently, these candidates for Governor have fallen into the same trap that many other politicians have fallen into by quickly denouncing any legislation that might help an undocumented individual. Such is the current state of politics. I applaud Governor Mike Easley and the decision by the North Carolina community college system for making this announcement and opening the doors of the NC community colleges to undocumented students, many of whom came to the United States at a very young age and had no choice in becoming undocumented. The decision to open the doors will allow many undocumented students to continue their education beyond high school.

Receipting Delays Continue at USCIS: USCIS continues to experience severe delays in issuing Receipt Notices for cases filed within the past several months at its various offices. Receipt Notices still have not been issued for many applications filed within the past three months. You can find out where USCIS is in the process of issuing Receipt Notices from our website at www.longchangonline.com. In many cases, applicants will have no proof of their filing for several months, except that those who filed with personal checks can confirm that application was received by their cancelled check.

Naturalization Cases Likely to Be Delayed Significantly: Due to the significant amount of N-400 (Naturalization) filings in June and July of this year (prior to the July 30 fee increase), USCIS has announced that the processing time for N-400 Applications for Naturalization filed after June 1, 2007 could take as long as 16 to 18 months. Cases in North Carolina do not appear to be taking this long, as of right now, but it is likely that new N-400 cases could take over one year to process.

New I-9 Form Issued: The Department of Homeland Security has issued an updated Form I-9 (Employment Eligibility Verification). The new Form I-9 has a revision date of June 5, 2007 on the bottom right corner and has been amended to reflect the current immigration regulations which list the acceptable identity and employment authorization documents. Employers should have begun using the new Form I-9 as of November 7, 2007. The Department of Homeland Security will not penalize employers for using the old Form I-9 until December 26, 2007. The

new Form I-9 can be found on our website at www.longchangonline.com. Employers may wish to review the revised I-9 Handbook issued by the Department of Homeland Security which provides guidance for completing the Form I-9 properly. The revised I-9 Handbook can also be viewed from our Long, Chang & Associates, L.L.P.'s website at www.longchangonline.com.

The most significant changes to the Form I-9 are to the list of acceptable List A documents. Several documents which were listed on the previous version of Form I-9 have been removed, meaning they are no longer acceptable evidence of an employee's identity and employment eligibility. Employers should carefully review the revised list of acceptable List A documents when completing a Form I-9 for a new employee.

It is a good bet that in the future the Department of Homeland Security will be imposing fines on a greater number of employers who fail to complete or who fail to properly complete the Form I-9 for new employees.

FBI Name Check Backlog Update: The Department of Homeland Security recently announced that it will be changing, along with the FBI, the FBI name check process that is part of most immigration applications. It is expected that the changes being made to the FBI name check process will reduce the backlog and that most backlogs due to delays in the FBI name check process will be cleared within six months.

The FBI name check process is one of the security checks that are applied to most applicants applying for immigration benefits. Over the past couple of years, some applicants have experienced significant delays in the processing of their applications for adjustment of status and for naturalization because there have been delays in completing the FBI name check process. Until now, most immigration applications cannot be approved without a positive FBI name check clearance. In some case, applications have been delayed for more than a year or longer. Faced with a growing number of lawsuits for these significant delays, the Department of Homeland Security is expected to approve applications if the FBI name check has been pending for a certain amount of time. What this likely means is that if the FBI name check has not been resolved within a certain amount of time, the Department of Homeland Security will complete the adjudication of the application and that, if the results of the FBI name check process come back with negative information, that application could be re-opened. That would likely be in only a limited number of cases. For most applicants who have been delayed for weeks, months or even years due to delays in the FBI name check process, the announcement by the Department of Homeland Security is great news.

About the Authors: Kristen A. Chang and David J. Long are attorneys in the immigration law firm of Long, Chang & Associates, L.L.P. Ms. Chang and Mr. Long are members of the North Carolina State Bar and the American Immigration Lawyers Association (AILA). Ms. Chang is fluent in both the Korean and English languages. Mr. Long has been certified by the North Carolina State Bar as a Specialist in Immigration Law. They may be reached via telephone at (336) 855-5700 or via e-mail at info@longchangonline.com.

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