



# Joseph Law Firm <sup>PC</sup>

## Immigration Law Specialists

Newsletter

October/November 2015

### Immigration News

#### **WHAT'S HAPPENING WITH DAPA?**

*Contributed by Aaron Hall, Partner*

In November of 2014, President Obama announced executive actions on immigration to great fanfare. Nearly a year later, some of the most high profile of those actions, including Deferred Action for Parental Accountability (DAPA), have yet to be implemented. DAPA would allow a grant of deferred action and a work permit for parents of U.S. citizens or lawful permanent residents if they (1) have resided in the U.S. since at least January 1, 2010; (2) have a U.S. citizen or lawful permanent resident son or daughter; and (3) do not have disqualifying crimes and are not otherwise high enforcement priorities.

Though the new deferred action program was originally slated to begin in spring of 2015, it has been delayed because the legality of the program was challenged in federal courts. In July 2015, the Fifth Circuit Court of Appeals heard oral arguments on the legality of the program. A decision from the Fifth Circuit could come at any time. Because two of the three judges assigned to the case had previously ruled against the program in a battle over a temporary injunction, it is widely expected that the court will again rule against it.

Regardless, the losing side will likely appeal the matter to the U.S. Supreme Court. If the Supreme Court accepts the case before January, it would likely be able to hear the case and issue a decision by June 2016.

In short, DAPA remains in limbo. The Department of Homeland Security is still eager to implement it and begin accepting applications. But until the courts come out with a final decision on the constitutionality of the program, everything is on hold.

#### **SENATE REJECTS "SANCTUARY CITIES" LEGISLATION**

*Contributed by Courtney Butler, Associate Attorney*

On Tuesday, October 20, 2015, the United States Senate considered Senator David Vitter's (R-LA) "Stop Sanctuary Policies and Protect Americans Act" (S. 2146). The Senate rejected the motion to proceed on the bill. The vote would have required 60 "Yea" votes to begin debate; the motion failed 54-45.

So-called "sanctuary cities" are those cities that limit coordination between state and local police and federal immigration authorities. The bill would have punished "sanctuary cities" by taking away millions of dollars in federal funding for any city that did not comply with Immigration and Customs Enforcement (ICE) detainer requests or that prohibited the collection of immigration information. The bill also would have added five-year mandatory minimum sentences for illegal reentry to the United States.

Policies limiting entanglement between local police and ICE officials – like those policies implemented by "sanctuary cities" – have a positive impact on the community by increasing communication and trust between the police and residents without imposing any restrictions on ICE's ability to enforce immigration laws. The policies also ensure that local police do not violate the law or the Constitution by illegally detaining a person without the authority to do so.

With respect to the proposed mandatory minimum sentences, according to the U.S. Sentencing Commission, if the mandatory minimum sentences had become law, the federal prison population would increase by approximately 57,000 individuals. According to Families Against Mandatory Minimums, this increase could cost taxpayers over \$2 billion per year. Rather than punish "sanctuary cities" for their policies, the federal government should focus on comprehensive immigration reform, so that immigration laws can be enforced in a manner that safeguards due process.



# DHS PROPOSES UPDATED REGULATIONS TO IMPROVE THE ABILITY OF STUDENTS IN THE STEM FIELDS TO WORK IN THE U.S.

*Contributed by Kim Tremblay, Associate Attorney*

On October 19th, the Department of Homeland Security (DHS) issued updated regulations for comment on the extension of Optional Practical Training (OPT) for F-1 students earning science, technology, engineering, and mathematics (STEM) degrees from U.S. universities and on “Cap-Gap” measures. The agency is doing so because similar regulations it issued in 2008 will be vacated in February 2016 due to ongoing litigation.



Foreign students who come to the United States to pursue higher education usually obtain F-1 visas. They are able to get practical job experience for 12 months through OPT. F-1 students with degrees in STEM fields can currently extend OPT for 17 months.

The new rules mainly propose a 24 month OPT extension for students in STEM fields. They also introduce measures to increase oversight of these extensions by requiring employers to implement formal training and mentoring plans, they add wage and other protections for STEM OPT students and U.S. workers, and will only allow extensions for students with degrees from accredited institutions.

The rules maintain “Cap-Gap” relief introduced in 2008. Some students in F-1 status change their status to H-1B workers once they have been hired by a U.S. employer. Most students cannot start working for the sponsoring employer until October 1st, the earliest start date for most H-1B visas. Cap-gap relief allows certain students to extend their OPT period until September 30th to ensure they do not have gaps in status between the end of their OPT period and the beginning of their H-1B status.

The purpose of the regulations is to attract and retain foreign students with STEM field degrees which are in the U.S.’s economic, cultural, and security interests. Comments on the regulations are due by November 18th, 2015.

## Firm News

### JLF PARTNERS PRESENT AT THE COLORADO AILA FALL CONFERENCE

Jeff Joseph, Senior Partner, recently co-chaired the Rocky Mountain Fall Conference for the Colorado Chapter of the American Immigration Lawyers Association (AILA). The conference programs was designed to provide continuing legal education for intermediate and advanced immigration attorneys. Three law partners from Joseph Law Firm were speakers at the event.



Aaron Hall, Partner, presented on a panel entitled “Is There Still an Immigration Safe Plea?” which considered how immigration lawyers should advise clients and defense attorneys on immigration safe pleas. Kirby Joseph, Managing Partner, spoke on a panel entitled, “Strategic Business Planning for Immigration Practices.” This panel looked at law practice management topics from the perspective of large firms, small firms and solo practitioners. Finally, Jeff Joseph presented on a panel entitled, “Bringing Your Clients into Compliance & Starting a Worksite Enforcement Practice.” This panel helped provide practicing attorneys with tips for worksite compliance visits and I-9 audits in the face of increased scrutiny of employers.



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