

US Visa Difficulties Are Lessening, but More Must Be Done

Security concerns remain paramount in the handling of US visas for international students and scientists, but efforts by science and education organizations to improve the process seem to be paying off.

Amy Flatten

Since the events of 11 September 2001, delays caused by increased security reviews in the US visa process have discouraged international scientists and students from coming to our shores. Scientists, educators, industrialists, and even some members of the Bush administration agree that preventing the world's best and brightest talent from coming to the US compromises our scientific enterprise—and the innovation system that underpins our economy. Nonetheless, national security interests have prevented any loosening of the visa restrictions, and mounting frustrations from visa delays and denials discourage foreign students and scholars from coming to the US.

Many members of the physics community can recount horror stories of overseas colleagues and students who couldn't attend meetings, collaborate with colleagues, or begin university classes because visa-application processing was delayed or visas were denied. These difficulties are usually attributed to the "Visas Mantis" review—a security clearance required for students and scholars who study any of roughly 200 scientific fields that are on the government's technology alert list (TAL). The list is used by US embassy officials to determine whether someone applying for a visa might have access to sensitive technologies or information through graduate studies or research.

But now there is some indication that the departments of State and Homeland Security are making progress in improving the visa process. This article provides an update on the collective efforts of the scientific and higher-education societies to reform the visa process, presents data on some of the reported improvements, examines ongoing concerns, and offers tips for preventing some of the most frequent visa problems.

Science and education join forces

On 12 May 2004, the American Physical Society (APS) and 20 other science, higher-education, and engineering organizations issued a joint statement urging the federal government to adopt six practical recommendations for improving the current visa-processing crisis by removing unnecessary barriers to multinational collaborations. The recommendations are contained in the box on page 51.

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The signatories represent 95% of the US research community, and their joint statement marks the first time that science and education leaders have worked together to develop a comprehensive plan to address the visa-processing quagmire. In the months since the statement was issued, the Department of State and DHS have reportedly taken quiet action on a number of the recommendations.

Reported progress

Because most fields of physics appear on the State Department's TAL, most physicists' applications receive extra scrutiny, which causes substantial processing delays. Janice Jacobs, deputy assistant secretary for consular affairs for the State Department, recently remarked, "It appeared as though the United States had taken away the welcome mat."

According to Jacobs, the September 11th attacks prompted new visa-application security checks without the added resources or staffing needed to handle the increased workload. In addition, some applicants reported that consular officers were accusatory or even hostile during the required interviews. State Department officials, fearing that consular officers could not adequately assess security risks, also strongly encouraged embassy staff to send visa applications to Washington, DC, "for further review" of any possible security-related questions. That further review often translated to further delay. The additional security checks, combined with resource shortages, aggressive interviewing tactics, and outdated information systems, created significant hurdles for individuals trying to obtain visas.

State Department officials, however, claim that streamlined procedures implemented last spring are reducing visa-processing times. Last September, the State Department reported that 98% of all Visas Mantis cases are cleared in less than 30 days, as shown in figures 1 and 2.

The State Department also reported that the new procedures allowed approximately 2000 backlogged Visas Mantis cases to be cleared last summer. Figure 3 shows the decline in the backlog.)

Several members of the physics community have noted the improved efficiency in the handling of visa applications and security reviews. Erick Weinberg, chair of the physics department at Columbia University, said, "Our experience with visas for new students this year was much better than last year. Of the students we had admitted for fall 2003, three students did not receive their visas, and even the ones who did endured lengthy delays for security checks. This year, all of our students received visas, and without long waits."

According to Ramamurti Shankar, chairman of Yale University's physics department, "Our registrar for physics graduate students says things are definitely better now than two or three years ago, and our director of

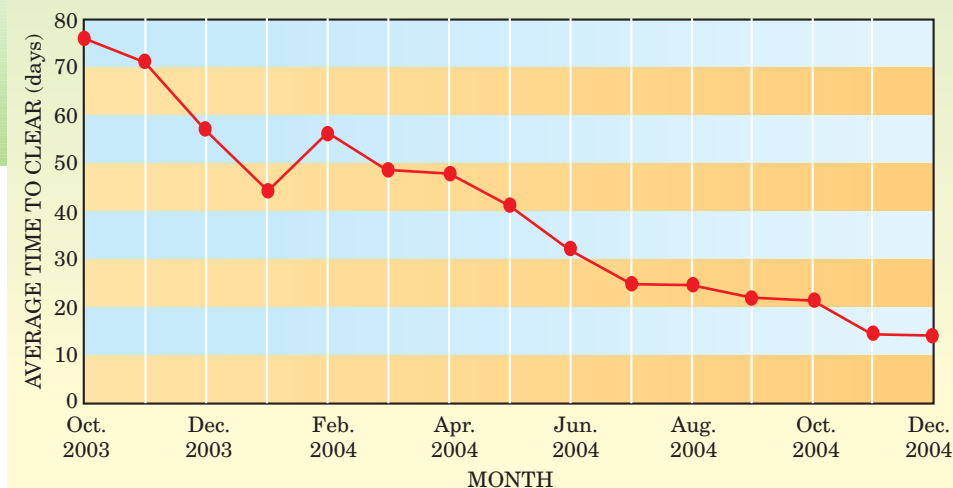


Figure 1. Average time to clear Visas Mantis cases.

the office of foreign scholars concurs.” Shankar also said, “We at Yale believe the dialog between [the] science and higher-education community and [the] State Department has led to these improvements, and this dialog must continue. In particular, we need to seek extended Visas Mantis validity, as scholars are currently cleared for one year at a time instead of the length of the appointment. Also, the process could be more transparent. When things go wrong, we need to be able to know more readily where the problem lies.”

According to APS President Helen Quinn, “There is a definite will to improve the situation in both the Department of State and DHS that has been demonstrated by the progress that has already happened. The approach of giving pragmatic suggestions has worked well. More changes are needed, but I am optimistic that we can continue to be effective if we continue to work in this way.” Although the news is promising, there are still some cases that remain pending for months (see figure 4).

Much work remains

While the federal government appears to have addressed at least some aspects of last May’s joint statement, the science community must continue to push for additional reforms. Three of the statement’s recommendations require particular attention.

Longer clearance periods and multiple entry visas. Progress is needed on the joint statement’s first recommendation to, “extend the validity of Visas Mantis security clearances for international students, scholars, and scientists from the current one-year time period to the duration of their course of study or academic appointment.” State Department and DHS officials are considering ways to extend the duration of the Visas Mantis security clearance period, but will not hint at the length of that extension or when the change might be announced. The State Department’s Jacobs said she hoped changes would occur within the next year.

State Department officials continue to cite their reciprocity policy for multiple-entry visas for Chinese and Russian applicants—the US will not grant multiple-entry visas unless US citizens are allowed multiple-entry visas in return. This means many scientists, particularly those from China and Russia, are discouraged from ongoing collaborations at US facilities. Although multiple-entry visas may be granted for Russian visitors who are not flagged for a Mantis review, most physicists are flagged and must undergo the additional security check. The US and China are considering multiple-entry visas for the business visa category only. The scientific community must continue pressing government officials for both longer Visas Mantis validity periods and multiple-entry visas for scholars and students.

Science and technology training for consular staff. The joint statement also recommended that the State Department “provide updated training of consular staff, establish clear protocols for initiating a Visas Mantis review, and ensure that screening tools are being used in the most appropriate manner.” The State Department reports that it has increased training in Visas Mantis screening so that processing time can be minimized. However, many in the scientific community feel that consular officers still need better preparation to address often complex science and

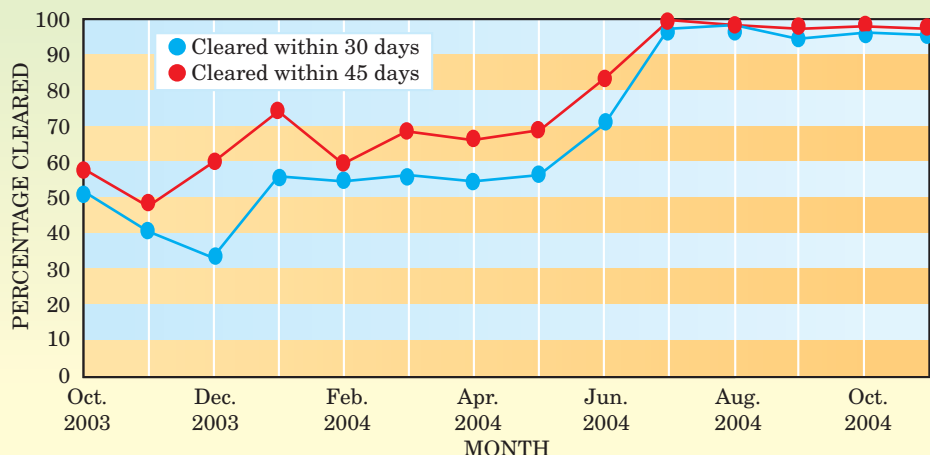


Figure 2. Percentage of Visas Mantis cases cleared within 30 and 45 days.

Statement and Recommendations on Visa Problems Harming America's Scientific, Economic, and Security Interests

May 12, 2004

We, the undersigned American organizations of higher education, science, and engineering, are strongly committed to dedicating our combined energies and expertise to enhancing homeland and national security. Our nation's colleges and universities and scientific and technical organizations are the engines of new knowledge, discoveries, technologies, and training that power the country's research enterprise and contribute greatly to economic and national security. Moreover, they are important hubs of international scientific and technical exchanges, and they play a vital role in facilitating educational and cultural exchanges that help to spread our nation's democratic values.

We strongly support the federal government's efforts to establish new visa policies and procedures to bolster security; however, we believe that some of the new procedures and policies, along with a lack of sufficient resources, have made the visa-issuance process inefficient, lengthy, and opaque. We are deeply concerned that this has led to a number of unintended consequences detrimental to science, higher education, and the nation.

In particular, there is increasing evidence that visa-related problems are discouraging and preventing the best and brightest international students, scholars, and scientists from studying and working in the United States, as well as attending academic and scientific conferences here and abroad. If action is not taken soon to improve the visa system, the misperception that the United States does not welcome international students, scholars, and scientists will grow, and they may not make our nation their destination of choice now and in the future. The damage to our nation's higher-education and scientific enterprises, economy, and national security would be irreparable. The United States cannot hope to maintain its present scientific and economic leadership position if it becomes isolated from the rest of the world.

We are resolute in our support of a secure visa system and believe that a more efficient system is a more secure one. We also are confident that it is possible to have a visa system that is timely and transparent, that provides for thorough reviews of visa applicants, and that still welcomes the brightest minds in the world. It is not a question of balancing science and security, as some have suggested. These priorities are not mutually exclusive; to the contrary, they complement each other, and each is vital to the other. Indeed, in the near term, some international scientists and engineers are directly contributing towards helping to win the war on terrorism. In the long run, a robust network of global interactions is essential to winning this war. Our nation needs a visa system that does not hinder such international exchange and cooperation.

The Departments of State and Homeland Security have responded to some of our concerns by taking steps to make the visa process less cumbersome and more transparent. However, serious problems remain, and it is in the hope of resolving these issues collaboratively that we offer the following recommendations:

Problem: Repetitive security checks that cause lengthy visa issuance delays.

Recommendation: Extend the validity of Visas Mantis security clearances for international students, scholars, and scientists from the current one-year time period to the duration of their course of study or academic appointment.

Problem: Inefficient visa-renewal process that causes lengthy delays.

Recommendation: Establish a timely process by which exchange visitors holding F and J visas can revalidate their visas, or at least begin the visa-renewal process, before they leave the United States to attend academic and scientific conferences, visit family, or attend to personal business.

Problem: Lack of transparency and priority-processing in the visa system.

Recommendation: Create a mechanism by which visa applicants and their sponsors may inquire about the status of pending visa applications, and establish a process by which applications pending for more than 30 days are given priority processing.

Problem: Inconsistent treatment of visa applications.

Recommendation: Provide updated training of consular staff, establish clear protocols for initiating a Visas Mantis review, and ensure that screening tools are being used in the most appropriate manner.

Problem: Repetitive processing of visa applications for those with a proven track record.

Recommendation: Revise visa reciprocity agreements between the United States and key sending countries, such as China and Russia, to extend the duration of visas each country grants citizens of the other, thereby reducing the number of times that visiting international students, scholars, and scientists must renew their visas.

Problem: Potential new impediment to international students, scholars, and scientists entering the U.S. created by proposed SEVIS fee collection mechanism.

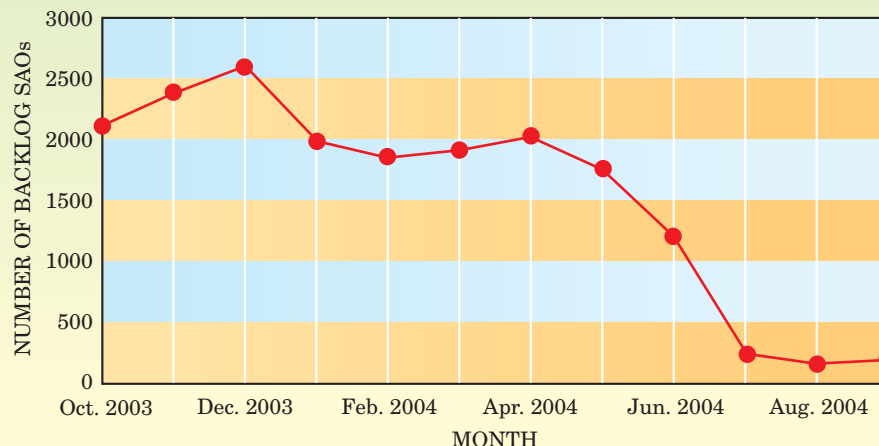
Recommendation: Implement a fee-collection system for the Student and Exchange Visitor Information System (SEVIS) that allows for a variety of simple fee payment methods that are quick, safe, and secure, including payment after the individual arrives in the United States. Additional funding and staffing resources across the agencies involved in visa adjudications are essential to the above recommendations and to an effective visa system. Congress and the Administration should ensure that adequate resources are provided.

We are committed to working with the federal government to construct a visa system that protects the nation from terrorists while enhancing our nation's security not only by barring inappropriate visitors but also by enabling the brightest and most qualified international students, scholars, and scientists to participate fully in the U.S. higher-education and research enterprises. We believe that implementing the recommendations above will help to make this goal a reality.

The signatories are:

American Association for the Advancement of Science
American Association of Community Colleges
American Association of Physics Teachers
American Chemical Society
American Council on Education
American Educational Research Association
American Physical Society
American Society for Biochemistry and Molecular Biology
American Society for Microbiology
Association of American Universities
Council on Government Relations
Council of Graduate Schools
Environmental Mutagen Society
The Federation of American Societies for Experimental Biology
IEEE-USA
Institute of Medicine
Linguistic Society of America
NAFSA: Association of International Educators
National Academy of Engineering
National Academy of Sciences
National Association of Independent Colleges and Universities
National Association of State Universities and Land-Grant Colleges
National Postdoctoral Association
Society for American Archaeology
SPIE—The International Society for Optical Engineering

Figure 3. Security Advisory Opinion (SAO) backlog, otherwise known as the Visas Mantis review backlog.



technology topics with scientists and engineers during visa interviews.

Denying visas to postdocs and grad students. One commonly used rationale for denying a postdoc or graduate student a visa is Section 214(b) of the Immigration and Nationality Act, which states, “Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for admission, that he is entitled to a nonimmigrant status. . . .” The law places the burden of proof on applicants to demonstrate that they have ties abroad that would compel them to leave the US at the end of their temporary stay.

Consular officers must decide the applicant’s immigration intentions in a very short time—after a brief interview and review of whatever evidence of strong ties back home an applicant presents. The definition of strong ties often differs from country to country, city to city, and individual to individual. Ties are the various aspects of life that bind a person to a country of residence. Examples are a job, a house, a family, or a bank account. Unfortunately, proving such ties is nearly impossible for most graduate and postdoctoral students, who do not own a home or have substantial bank accounts, and often do not have a spouse or children in the home country.

In ongoing discussions with State Department officials, APS President Quinn has suggested that the career investment of PhD students or postdocs could be considered as one of the ties to home when assessing their visa applications. Visa applicants who are in the middle of a PhD degree program or a term postdoctoral appointment will undoubtedly return to their home country to complete their program or appointment.

What you can do: Share these tips!

While the visa process seems to be improving, foreign students and researchers can take certain steps to better cope with the most frequently reported visa problems. All visa applicants should try to submit their application at least three months before they need to travel. If an applicant has not received a response or decision within 30 days after submitting a visa application, the applicant should visit the National Academy of Sciences’ visa website, <http://www.nationalacademies.org/visas>. Once there, the

applicant should fill out the visa questionnaire.

At first glance, the NAS questionnaire appears to be a form to gather information for statistical purposes, but it is actually much more. NAS staff members review the questionnaires each week to identify applications that are still pending 30 days past the initial application date. Each week, every such case is reported to the State Department. This process continues every week until each case has been resolved. The State Department notifies NAS staff each week of the cases that have been resolved. This system helps make sure that the State Department is aware of stalled cases and ensures that they don’t fall through the cracks.

Students who wish to make a temporary visit to their home country should make their return preparations before leaving the US. The State Department recently began posting wait times for visa appointments and processing for consular offices around the world at http://www.travel.state.gov/visa/tempvisitors_wait.php. While the average wait time for Visas Mantis cases is reportedly shorter than it was last summer, bear in mind that these reported wait times are only averages, not guarantees. The following

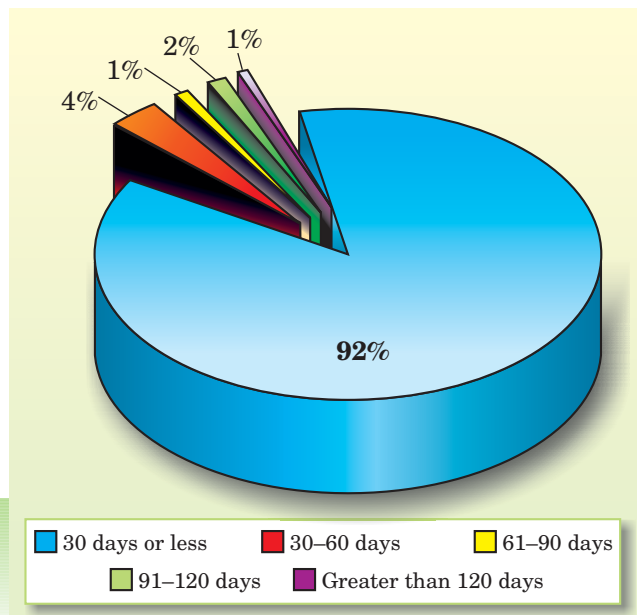


Figure 4. Percentage of pending Visas Mantis cases cleared within given time frames as of 3 January 2005.

suggestions may lessen the hardship of waiting for visa processing:

► Before leaving the US, visit the State Department's visa website to estimate the average wait time for scheduling the interview necessary to return to the US, and determine the average wait time for obtaining a visa at the appropriate consulate. Likewise, a link from the department's website to embassies' consular section websites enables students to review local procedures and find instructions on how to make an interview appointment.

► Before departing the US, try to schedule your return interview at the appropriate consulate. Request that the interview occur as soon as possible upon your arrival in your home county.

► Make backup arrangements for food and housing in the event of a delayed visa. Students may also wish to arrange a way to continue communicating with US academic advisers when outside the US.

Since the joint statement was issued, it appears that the Department of State and DHS are working with the scientific and higher-educational societies toward some improvement in the transparency, efficiency, and predictability of the visa process. In response to the joint statement, Maura Harty, assistant secretary of state for consular affairs, wrote of the visa-processing improvements in a letter to Quinn, stating, "I am pleased to note that we have turned a corner."

Nonetheless, many scientists remain skeptical about the reported improvements. As Quinn responded to Harty, "A considerable number of our colleagues have had, or know others who have had, bad experiences with visa applications, and it will take some time period of better results before many have faith that the system is working well." The joint statement signatories will continue to push for reforms. ■

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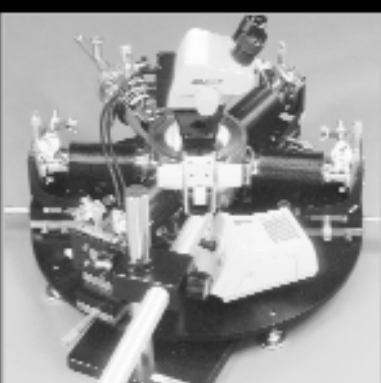


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