

Department of State Pt. 62

PART 62—EXCHANGE VISITOR PROGRAM

Subpart A — General Provisions

§ 62.1 Purpose.

(a) The regulations set forth in this part implement the Mutual Educational and Cultural Exchange Act of 1961 (the “Act”), as amended, Public Law 87–256, 22 U.S.C. 2451, *et seq.* (1988). The purpose of the Act is to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. Educational and cultural exchanges assist the Department of State in furthering the foreign policy objectives of the United States. These exchanges are defined by section 102 of the Act, 22 U.S.C. 2452, and section 101(a)(15)(J) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(J).

(b) The Secretary of State of the Department of State facilitates activities specified in the Act, in part, by designating public and private entities to act as sponsors of the Exchange Visitor Program. Sponsors may act independently or with the assistance of third parties. The purpose of the Program is to provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries. Exchange visitors enter the United States on a J visa. The regulations set forth in this subpart are applicable to all sponsors.

§ 62.10 Program administration.

Sponsors are responsible for the effective administration of their exchange visitor programs. These responsibilities include:

(a) *Selection of exchange visitors.* Sponsors shall provide a system to screen and select prospective exchange visitors to ensure that they are eligible for program participation, and that:

- (1) The program is suitable to the exchange visitor’s background, needs, and experience; and
- (2) The exchange visitor possesses sufficient proficiency in the English language to participate in his or her program.

(b) *Pre-arrival information.* Sponsors shall provide exchange visitors with pre-arrival materials including, but not limited to, information on:

- (1) The purpose of the Exchange Visitor Program;
- (2) Home-country physical presence requirement;
- (3) Travel and entry into the United States;
- (4) Housing;
- (5) Fees payable to the sponsor;
- (6) Other costs that the exchange visitor will likely incur (e.g., living expenses) while in the United States;

(7) Health care and insurance; and

(8) Other information which will assist exchange visitors to prepare for their stay in the United States.

(c) *Orientation.* Sponsors shall offer appropriate orientation for all exchange visitors. Sponsors are encouraged to provide orientation for the exchange visitor's immediate family, especially those who are expected to be in the United States for more than one year. Orientation shall include, but not be limited to, information concerning:

(1) Life and customs in the United States;

(2) Local community resources (e.g., public transportation, medical centers, schools, libraries, recreation centers, and banks), to the extent possible;

(3) Available health care, emergency assistance, and insurance coverage;

(4) A description of the program in which the exchange visitor is participating;

(5) Rules that the exchange visitors are required to follow under the sponsor's program;

(6) Address of the sponsor and the name and telephone number of the responsible officer; and

(7) Address and telephone number of the Exchange Visitor Program Services of the Department of State and a copy of the Exchange Visitor Program brochure outlining the regulations relevant to the exchange visitors.

(d) *Form DS-2019.* Sponsors shall ensure that only the responsible officer or alternate responsible officers issue Forms DS-2019;

(e) *Monitoring of exchange visitors.* Sponsors shall monitor, through employees, officers, agents, or third parties, the exchange visitors participating in their programs. Sponsors shall:

(1) Ensure that the activity in which the exchange visitor is engaged is consistent with the category and activity listed on the exchange visitor's Form DS-2019;

(2) Monitor the progress and welfare of the exchange visitor to the extent appropriate for the category; and

(3) Require the exchange visitor to keep the sponsor apprised of his or her address and telephone number, and maintain such information.

(f) *Requests by the Department of State.* Sponsors shall, to the extent lawfully permitted, furnish to the Department of State within a reasonable time all information, reports, documents, books, files, and other records requested by the Department of State on all matters related to their exchange visitor programs.

(g) *Inquiries and investigations.* Sponsors shall cooperate with any inquiry or investigation that may be undertaken by the Department of State.

(h) *Retention of records.* Sponsors shall retain all records related to their exchange visitor program and exchange visitors for a minimum of three years.

§ 62.14 Insurance.

(a) Sponsors shall require each exchange visitor to have insurance in effect which covers the exchange visitor for sickness or accident during the period of time that an exchange visitor participates in the sponsor's exchange visitor program. Minimum coverage shall provide:

- (1) Medical benefits of at least \$50,000 per accident or illness;
- (2) Repatriation of remains in the amount of \$7,500;
- (3) Expenses associated with the medical evacuation of the exchange visitor to his or her home country in the amount of \$10,000; and
- (4) A deductible not to exceed \$500 per accident or illness.

(b) An insurance policy secured to fulfill the requirements of this section:

- (1) May require a waiting period for pre-existing conditions which is reasonable as determined by current industry standards;
- (2) May include provision for co-insurance under the terms of which the exchange visitor may be required to pay up to 25% of the covered benefits per accident or illness; and
- (3) Shall not unreasonably exclude coverage for perils inherent to the activities of the exchange program in which the exchange visitor participates.

(c) Any policy, plan, or contract secured to fill the above requirements must, at a minimum, be:

- (1) Underwritten by an insurance corporation having an A.M. Best rating of "A-" or above, an Insurance Solvency International, Ltd. (ISI) rating of "A-" or above, a Standard & Poor's Claims-paying Ability rating of "A-" or above, a Weiss Research, Inc. rating of B+ or above, or such other rating as the Department of State may from time to time specify; or
- (2) Backed by the full faith and credit of the government of the exchange visitor's home country; or
- (3) Part of a health benefits program offered on a group basis to employees or enrolled students by a designated sponsor; or
- (4) Offered through or underwritten by a federally qualified Health Maintenance Organization (HMO) or eligible Competitive Medical Plan (CMP) as determined by the Health Care Financing Administration of the U.S. Department of Health and Human Services.

(d) Federal, state or local government agencies, state colleges and universities, and public community colleges may, if permitted by law, self-insure any or all of the above-required insurance coverage.

(e) At the request of a non-governmental sponsor of an exchange visitor program, and upon a showing that such sponsor has funds readily available and under its control sufficient to meet the requirements of this section, the Department of State may permit the sponsor to self-insure or to accept full financial responsibility for such requirements.

(f) The Department of State, in its sole discretion, may condition its approval of self-insurance or the acceptance of full

financial responsibility by the non-governmental sponsor by requiring such sponsor to secure a payment bond in favor of the Department of State guaranteeing the sponsor's obligations hereunder.

(g) An accompanying spouse or dependent of an exchange visitor is required to be covered by insurance in the amounts set forth in paragraph (a) of this section. Sponsors shall inform exchange visitors of this requirement, in writing, in advance of the exchange visitor's arrival in the United States.

(h) An exchange visitor who willfully fails to maintain the insurance coverage set forth above while a participant in an exchange visitor program or who makes a material misrepresentation to the sponsor concerning such coverage shall be deemed to be in violation of these regulations and shall be subject to termination as a participant

(i) A sponsor shall terminate an exchange visitor's participation in its program if the sponsor determines that the exchange visitor or any accompanying spouse or dependent willfully fails to remain in compliance with this section.

[58 FR 15196, Mar. 19, 1993, as amended at 59 FR 34761, July 7, 1994. Redesignated at 64 FR 54539, Oct. 7, 1999]

Subpart B —Specific Program Provisions

§ 62.32 Summer work travel.

(a) *Introduction.* These regulations govern program participation in summer work travel programs conducted by Department of State-designated sponsors pursuant to the authority granted the Department of State by Public Law 105-277. These programs provide foreign post-secondary students the opportunity to work and travel in the United States for a four month period during their summer vacations. Extensions of program participation are not permitted.

(b) *Participant selection and screening.* In addition to satisfying the requirements set forth at § 62.10(a), sponsors shall adequately screen all program participants and at a minimum shall:

- (1) Conduct an in-person interview;
- (2) Ensure that the participant is a bona fide post-secondary school student in his or her home country; and
- (3) Ensure that not more than ten percent of selected program participants have previously participated in a summer work travel program.

(c) *Participant orientation.* Sponsors shall provide program participants, prior to their departure from the home country, information regarding:

- (1) The name and location of their employer, if prior employment has been arranged; and
- (2) Any contractual obligations related to their acceptance of paid employment in the United States, if prior employment has been arranged.

(d) *Participant placement.* Sponsors shall ensure that not less than 50 percent of their program participants have pre-arranged employment with a U.S. employer. For all program participants for whom pre-arranged employment has not been secured sponsors shall:

- (1) Ensure that the participant has sufficient financial resources to support him or herself during his or her search for employment;
- (2) Provide the participant with pre-departure information that explains how to seek employment and how to secure lodging in the United States;
- (3) Prepare and provide to program participants a roster of bona fide job listings equal to or greater than the number of participants for whom prearranged employment has not been secured; and,
- (4) Undertake reasonable efforts to secure suitable employment for any participant who has not found suitable employment within one week of commencing his or her job search.

(e) *Participant compensation.* Sponsors shall advise program participants regarding Federal Minimum Wage requirements and shall ensure that participants receive pay and benefits commensurate with those offered to their American counterparts.

(f) *Monitoring.* Sponsors shall provide:

- (1) All participants with a telephone number which allows 24-hour immediate contact with the sponsor; and
- (2) Appropriate assistance to program participants on an as-needed emergency basis.

(g) *Use of third parties.* Program sponsors are responsible for full compliance with all Exchange Visitor Program regulations. If a program sponsor elects to utilize a third-party to provide U.S. hosting, orientation, placement, or other support services to participants for whom they have facilitated entry into the United States, such sponsor shall closely oversee the provision of these services by the third-party and ensure that the provision of these services satisfies all regulatory obligations.

(h) *Placement report.* In lieu of listing the name and address of the participant's pre-arranged employer on the Form DS-2019, sponsors shall submit a report of all participant placements. Sponsors shall report the name, place of employment, and the number of times each participant has participated in a summer work travel program. In addition, for participants for whom employment was not pre-arranged, the sponsor shall also list the length of time it took for such participant to find employment. Such report shall be submitted semi-annually on January 30th and July 31st of each year and shall reflect placements made in the preceding six month period.

(i) *Unauthorized activities.* Program participants may not be employed as domestic employees in United States households or in positions that require the participant to invest his or her own monies to provide themselves with inventory for the purpose of door-to-door sales.

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