



VERSION: November 4, 2009

Proposed J Subpart A Rule, compiled with notes

[74 Fed. Reg. 48177](#) (September 22, 2009)

Style Key:

This text style reflects the current rule text *unchanged by the new rule*

~~This text style reflects the current rule text *removed by the new rule*~~

This text style reflects new rule text *added by the new rule*

This is a proposed rule to amend 22 C.F.R. Part 62, Subpart A, the part of the regulations that applies to all J exchange visitor programs and program categories. Public comment is due by November 23, 2009.

22 C.F.R. Part 62 - Exchange Visitors

Subpart A—General Provisions

62.1

§ 62.1 *Purpose.*

This paragraph would remain unchanged.

(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.

§ 62.2 *Definitions.*

Accompanying spouse and dependents. ~~means~~ the alien spouse and minor unmarried children of an exchange visitor who are accompanying or following to join the exchange visitor and who are seeking to enter or have entered the United States temporarily on a J-2 visa or are seeking to acquire or have acquired such status after admission. For the purpose of these regulations, a minor is a person under the age of 21 years old.

~~*Accredited educational institution.* means Any publicly or privately operated primary, secondary, or post-secondary institution in the United States that offers primarily academic programs and is of learning duly recognized and declared as such by the appropriate authority of the state duly accredited by the appropriate academic accrediting authority of the State in which such institution is located; provided, however, that in addition to any state recognition, all post-secondary institutions shall also be accredited by a nationally recognized accrediting agency or association as recognized by the United States Secretary of Education. An institution that offers primarily vocational or technical programs does not fall within the purview of an academic institution for this purpose. but shall not include any institution whose offered programs are primarily vocational in nature.~~

Act. ~~means~~ The Mutual Educational and Cultural Exchange Act of 1961, as amended.

Actual and current U.S. address. The physical, geographic location at which an exchange visitor resides while participating in an exchange program.

Alternate Responsible Officer ("ARO"). An employee or officer of a designated sponsor who has been nominated by the sponsor, and approved by the Department of State to assist the Responsible Officer in carrying out the responsibilities outlined in § 62.11. An ARO must be a citizen of the United States or a legal permanent resident.

"The term "accredited educational institution" has been changed to "accredited academic institution". In the proposed definition, the Department of State clarifies that educational institutions that offer primarily vocational or technical courses of study are not considered academic. The addition of the "technical" distinction parallels the Department of Education's replacement of regulations governing purely "vocational" studies with a new "vocational/technical" classification that acknowledges the new information technology curricula that are neither vocational nor academic. Vocational programs are not included under the Mutual Educational and Cultural Exchange Act of 1961." *supp info at 48179.* The new term *accredited academic institution* replaces the current term *accredited educational institution* throughout Subpart A.

Several provisions in proposed § 62.13 (Notification requirements) require the sponsor to maintain the "actual and current U.S. address in SEVIS. This paragraph defines that term.

This paragraph defines the term "Alternate Responsible Officer." The current regulations reference AROs in the definition of responsible officer, but do not separately define that term.

Certificate of Good Standing. A document issued by an official of the Department of State in the State where the organization resides. A Certificate of Good Standing confirms that a corporation, partnership or other legal entity is in existence or authorized to transact business. A Certificate of Good Standing is also known as a Certificate of Authorization or a Certificate of Existence.

Citizen of the United States (entity).

~~(2)~~ (1) A general or limited partnership created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or possession of the United States, of which a majority of the partners are citizens of the United States:

(i) Which has its principal place of business in the United States, and

(ii) In instances where the partnership is additionally governed by a Board, the majority of whose officers are citizens of the United States; or

~~(3)~~ (2) A for-profit corporation, association, or other legal entity created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or outlying possessions of the United States, ~~which:~~

~~(i) Has its~~ whose principal place of business is located in the United States, and

~~(ii)(i) Has its~~ Whose shares or voting interests are publicly traded on a U.S. stock exchange; or, ~~if its shares or voting interests are not publicly traded on a U.S. stock exchange, it shall nevertheless be deemed to be a citizen of the United States if a~~

(ii) A majority of its whose officers, a majority of whose shareholders, and a majority of the members of its Board of Directors ~~Board of Directors, and its shareholders or holders of voting interests~~ are citizens of the United States; or

~~(4)~~(3) A non-profit corporation, association, or other legal entity created or organized under the laws of the United States, or any state, the District of Columbia, or territory or outlying possessions of the United States; and

(i) Which is qualified with the Internal Revenue Service as a tax-exempt organization pursuant to §501(c)~~(3)~~ of the Internal Revenue Code; and

(ii) ~~Which has its~~ Whose principal place of business is located in the United States; and

(iii) ~~In which a~~ A majority of its whose officers and a majority of whose members of its Board of Directors, Board of Trustees or other like body vested with its management are citizens of the United States; or

The proposed rule divides the current definition of *citizen of the United States* into two definitions: one for individuals and one for entities.

~~(5)~~(4) An accredited college, university, or other post-secondary educational academic institution created or organized under the laws of the United States, or of any state, including a county, municipality, or other political subdivision thereof, the District of Columbia, or of a any territory or outlying possessions of the United States; or

~~(6)~~(5) An agency of the United States, or of any state or local government, the District of Columbia, or a any territory or outlying possession of the United States.

Citizen of the United States (individual). means A person who:

(1) ~~An individual who~~ Is a citizen or national of the United States or one of its territories or outlying possessions; or

(2) ~~who~~ Has been lawfully admitted for permanent residence, within the meaning of section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101); or

Clerical work ~~means~~. Routine administrative work generally performed in an office or office-like setting, such as data entry, filing, typing, mail sorting and distribution, and other general administrative or support office tasks.

Consortium. means A not-for-profit corporation, partnership, joint venture or other association formed by two or more accredited educational academic institutions for the purpose of sharing educational resources, conducting research, and/or developing new programs to enrich or expand the opportunities offered by its members. Entities An academic institution in the United States that participates in a consortium are is not barred from having a separate exchange visitor program designations of their its own.

Country of nationality or last legal permanent residence. means ~~either~~ The country of which the exchange visitor ~~was~~ is a national at the time status as an exchange visitor was acquired or the last foreign country in which the visitor had a legal permanent residence before acquiring status as an exchange visitor.

Cross-cultural activity ~~is a~~. An activity designed to promote exposure and interchange between exchange visitors and Americans so as to increase their understanding of each other's society, culture, and institutions.

Department of State. means The United States Department of State.

Designation. means ~~the~~ The written authorization given by the Department of State to an exchange visitor program applicant to conduct an exchange visitor program as a sponsor.

notes

~~Employee. means a~~ Employee. means a An individual who provides services or labor for an employer for wages or other remuneration. A third party, as defined in this section, or an independent contractor, as defined in 8 CFR 274a.1(j) is not an employee.

The proposed rule excludes third parties and independent contractors from the definition of employee, which means that they cannot be designated as an RO/ARO by the sponsor.

~~Exchange visitor. means a~~ Exchange visitor. means a A foreign national who ~~has been selected by a sponsor to participate in an exchange visitor program and who is seeking to enter or has entered~~ is in the United States temporarily on a nonimmigrant J-1 visa to participate in an exchange visitor program. The term does not include the ~~visitor's immediate family~~ visitor's immediate family accompanying spouse and dependants of the exchange visitor.

~~Exchange Visitor Program. means~~ Exchange Visitor Program. means The international exchange program administered by the Department of State to implement the Act by means of educational and cultural exchange programs. When “exchange visitor program” is set forth in lower case, it refers to the individual program of a sponsor which has been designated by the Department of State.

~~Exchange Visitor Program Services means the Department of State staff delegated authority by the Secretary of State to administer the Exchange Visitor Program in compliance with the regulations set forth in this part.~~

The former Office of Exchange Visitor Program Services is now called the Office of Designation, defined below.

~~Exchange visitor's government. means~~ Exchange visitor's government. means The government of the country of the exchange visitor's nationality or ~~the country where the exchange visitor has a~~ last legal permanent residence.

~~Financed directly. means~~ Financed directly. means Financed in whole or in part by the ~~United States~~ U.S. Government or the exchange visitor's government with funds contributed directly to the exchange visitor in connection with his or her participation in an exchange visitor program.

~~Financed indirectly. means~~

(1) Financed by an international organization with funds contributed by either the United States or the exchange visitor's government for use in financing international educational and cultural exchanges, or

(2) Financed by an organization or institution with funds made available by either the United States or the exchange visitor's government for the purpose of furthering international educational and cultural exchange.

Foreign Medical Graduate. A foreign national that

The proposed rule adds a definition of foreign medical graduate.

(1) Is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and entering the United States for the purpose of seeking to pursue graduate medical education or training at accredited schools of medicine or scientific institutions; or, for the purposes of observation, consultation, teaching, or research; or,

(2) Has passed Parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services), has competency in oral and written English, will be able to adapt to the educational environment in which he or she will be receiving his/her education or training, and has adequate prior education and training to participate satisfactorily in the program for which he/she is coming to the United States.

Form DS-2019. means a Certificate of Eligibility for Exchange Visitor (J-1) Status, a controlled document of the Department of State.

The proposed rule adds other EVP forms to the list of forms defined.

Form DS-3036. Exchange Visitor Program Application. a controlled document of the Department of State.

Form DS-3037. Update of Information on a Sponsor's Exchange Visitor Program. A controlled document of the Department of State.

Form DS-7002. Training/Internship Placement Plan (T/IPP). A controlled document of the Department of State. This Form is for use in connection with the Trainee, Intern and Student Intern categories only.

Members had reported that Form DS-7002 has been mistakenly required by consulates for J participants other than Trainee and Intern. The proposed rule helpfully clarifies that Form DS-7002 is used *only* with the Trainee, Intern, and Student Intern categories.

Full course of study. means Full-time enrollment in an academic program of classroom participation and study, and/or doctoral thesis research at an accredited ~~educational~~ academic institution as follows:

The proposed rule clarifies that to qualify as a full course of study, an academic program must be full-time.

(1) Secondary school students ~~shall~~ must satisfy the attendance and course requirements of the ~~s~~State in which the school they attend is are located;

(2) College and university students ~~shall~~ must register for and complete a full course of study, as defined by the accredited ~~educational~~ academic institution in which the student is registered, unless exempted in accordance with §62.23(e).

Graduate medical education or training. means Participation in a program in which the alien physician a foreign medical graduate will receive graduate medical education or training, which generally consists of a residency or fellowship program involving health care services to patients, but does not include programs involving observation, consultation, teaching or research in which there is no or only incidental patient care. This program may consist of a medical specialty, a directly related medical subspecialty, or both.

In the definition of *graduate medical education or training*, the proposed rule replaces the term *alien physician* with the new term *foreign medical graduate*, defined above.

Home-country physical presence requirement. ~~means~~ †The requirement that an exchange visitor (J visa) who is within the purview of section 212(e) of the Immigration and Nationality Act and Public Law 94-484 (substantially quoted in 22 CFR §62.44 41.63) must reside and be physically present in the country of nationality or last legal permanent residence for an aggregate of at least two years following departure from the United States before the exchange visitor is eligible to apply for an immigrant visa or permanent residence, a nonimmigrant H visa as a temporary worker or trainee, or a nonimmigrant L visa as an intracompany transferee, or a nonimmigrant H or L visa as the spouse or minor child of a person who is a temporary worker or trainee or an intracompany transferee. See section 101(a)(15)(H) or section 101(a)(15)(L) of the Immigration and Nationality Act, as amended.

Host Organization. ~~means a~~ A third party in the United States that conducts training or internship programs on behalf of designated program sponsors pursuant to an executed written agreement between the two parties.

Intern ~~means a foreign national who either~~

~~(1) Is currently enrolled in and pursuing studies at a degree- or certificate-granting post-secondary academic institution outside the United States or~~

~~(2) Graduated from such an institution no more than 12 months prior to his/her exchange visitor program begin date, and who enters the United States to participate in a structured and guided work-based internship program in his/her specific academic field.~~

Internship Program. ~~means a~~ A structured and guided work-based learning program as set forth in an individualized Training/Internship Placement Plan (T/IPP) that reinforces a student's or recent graduate's academic study; recognizes the need for work-based experience; provides on-the-job exposure to American techniques, methodologies, and technologies expertise; and enhances the Intern's knowledge of American culture and society.

J visa. ~~means a~~ A non-immigrant visa issued pursuant to 8 U.S.C. 1101(a)(15)(J). A J-1 visa is issued to the exchange visitor. A J-2 visas are is issued to the exchange visitor's accompanying immediate family, spouse and minor dependant children.

Office of Designation. The Department of State office to which the Secretary of State delegated the authority to administer the Exchange Visitor Program.

On-the-job training. ~~means a~~ An individual's observation of and participation in given tasks demonstrated by experienced workers for the purpose of acquiring competency in such tasks.

notes

DOS has inserted the term *J visa* after the term *exchange visitor* in the definition of home-country physical presence requirement. J visa is a much more expansive term, since it also includes J dependents. The final sentence added to this definition appears to be unfinished, and may have been meant to be included to more precisely define the "H visa" and "L visa" references.

Clarifies that a Host Organization is also considered a *third party*.

Reflects that the prior Office of Exchange Visitor Program Services is now called the Office of Designation.

Prescribed course of study. means ~~a~~ A non-degree academic program with a specific educational objective. Such course of study may include intensive English language training, classroom instruction, research projects, and/or academic training to the extent permitted in § 62.23.

Reciprocity. means ~~+~~ The participation of a ~~United States~~ U.S. citizen in an educational and cultural program in a foreign country in exchange for the participation of a foreign national in the Exchange Visitor Program. Where used herein, “reciprocity” ~~shall~~ will be interpreted broadly; unless otherwise specified, reciprocity does not require a one-for-one exchange or that exchange visitors be engaged in the same activity. ~~For example,~~ exchange visitors coming to the United States for training in American banking practices and Americans going abroad to teach foreign nationals public administration would be considered a reciprocal exchange, when arranged or facilitated by the same sponsor.

Responsible officer (“RO”). means ~~the~~ An employee or officer of a designated sponsor who has been ~~listed with~~ nominated by the sponsor, and approved by the Department of State ~~as assuming the responsibilities to carry out the duties~~ outlined in § 62.11. ~~The designation of alternate responsible officers is permitted and encouraged. The responsible officer and alternate responsible officers~~ An RO must be a citizens of the United States or ~~persons who have been lawfully admitted for permanent residence~~ a legal permanent resident of the United States.

The proposed definition of RO reflects the fact that a sponsor’s nomination of an RO must be approved by DOS.

Secretary of State. means ~~+~~ The Secretary of State ~~of the Department of State~~ or an employee of the U.S. Department of State acting under a delegation of authority from the Secretary of State.

SEVIS (Student and Exchange Visitor Information System). The statutorily mandated system designed to collect information on non-immigrant students (F and M visa), exchange visitors (J visa), and their spouses and dependants (F-2, M-2, and J-2). SEVIS enables schools and program sponsors to electronically transmit information and event notifications, via the Internet, to the Department of Homeland Security and the Department of State throughout a student’s or exchange visitor’s stay in the United States.

Site of activity. The physical, geographic location(s) where an exchange visitor participates in his or her exchange program. If a program takes place at more than one location, the sponsor must list all locations in SEVIS and indicate as “primary” the one at which the exchange visitor is currently located.

The proposal adds a specific definition of *site of activity*, emphasizing the geographic location of the participant’s exchange activity, and that each site of activity must be listed in SEVIS.

Sponsor. means A legal entity designated by the Secretary of State of the State Department to conduct an exchange visitor program.

Staffing/Employment Agency. ~~means~~ a U.S. business that hires individuals for the express purpose of supplying workers to other businesses. Typically, the other businesses ~~with which~~ where workers are placed pay an hourly fee per employee to the staffing/employment agency, of which the worker receives a percentage.

Student internship program. A structured and guided work-based learning program as set forth in an individualized Form DS-7002 that fulfills a student's academic degree requirements, recognizes the need for work-based experience, provides on-the-job exposure to American techniques, methodologies, and technologies, and enhances a student intern's knowledge of American culture and society.

~~*Third party.* means an entity cooperating with or assisting the sponsor in the conduct of the sponsor's program. A person or legal entity with whom a sponsor has executed a written agreement for the person or entity to act on behalf of the sponsor in the conduct of the sponsor's exchange visitor program. A third party under contract with a sponsor may not subcontract or delegate its Exchange Visitor Program obligations to another party.~~ Sponsors are required to take all reasonable steps to ensure that third parties know and comply with all applicable provisions of these regulations. ~~Third party actions in the course of providing such assistance or cooperation shall be imputed to the sponsor in evaluating the sponsor's compliance with these regulations.~~ The Department of State imputes to sponsors all actions a third party takes in acting on their behalf.

~~*Trainee* means a foreign national who has either:~~

~~(1) A degree or professional certificate from a foreign post-secondary academic institution and at least one year of prior related work experience in his/her occupational field acquired outside the United States, or~~

~~(2) Five years of work experience outside the United States in his/her occupational field, and who enters the United States to participate in a structured and guided work-based training program in his/her specific occupational field.~~

Training Program. ~~means a~~ A structured and guided work-based learning program set forth in an individualized Trainee/Internship Placement Plan (T/IPP) Form DS-7002 that develops new and advanced skills in a trainee's occupational field through exposure to American techniques, methodologies, and ~~expertise~~ technologies; and enhances both a trainee's understanding of American culture and society. ~~and his/her skills in his/her occupational field.~~

Validation. The process by which a Responsible Officer or Alternate Responsible Officer updates a SEVIS record of an exchange visitor

Adds a definition of SEVIS Validation.

to show that the prospective exchange visitor (and accompanying spouse and dependents, if any) entered the United States, reported to his or her sponsor, and is participating in the exchange visitor program, at the site of activity identified on the Form DS-2019.

62.3

§ 62.3 *Sponsor eligibility.*

62.3(a)

(a) Entities eligible to apply for designation as a sponsor of an exchange visitor program are the following:

(1) ~~United States~~ U.S. local, ~~s~~State and ~~f~~Federal ~~g~~Government agencies to include the District of Columbia; and government agencies of any U.S. territories and outlying possessions;

(2) International agencies or organizations of which the United States is a member and ~~which~~ that have an office in the United States; or

(3) Reputable organizations ~~which~~ that are “citizens of the United States,” as that term is defined in § 62.2.

62.3(b)

(b) To be eligible for designation as a sponsor, an entity is required to:

62.3(b)(1)

(1) Demonstrate, to the Department of State's satisfaction, its ability to comply and remain in continual compliance with all provisions of 22 CFR part 62; and

62.3(b)(2)

(2) Meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange program.

62.3(b)(3)

(3) Demonstrate that the organization or its proposed RO has no fewer than three years experience in international exchange; and

The proposed rule adds a new requirement for designation that either the organization or its proposed RO have at least 3 years of experience in international exchange. This would allow new organizations to qualify, by hiring a prospective RO that has the requisite experience.

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62.3(b)(4)

(4) Has successfully completed a site visit conducted by the Department of State or its agent, the cost for which will be borne by the applicant.

The proposal adds a requirement that DOS conduct an on-site inspection, paid for by the prospective sponsor, as part of the initial designation process.

62.4

§ 62.4 *Categories of participant eligibility.*

Sponsors ~~may~~ select foreign nationals to participate in ~~their~~ exchange visitor program(s) in the United States. Participation ~~by foreign nationals in an exchange visitor program~~ is limited to ~~individuals~~ foreign nationals who ~~shall be engaged in the following activities in the United States~~ who meet the following criteria for each of the following categories:

62.4(a)

(a) *Student.* ~~An individual~~ foreign national who is:

62.4(a)(1)

(1) Studying in the United States and:

62.4(a)(1)(i)

(i) Pursuing a full course of study at a secondary accredited ~~educational~~ academic institution;

62.4(a)(1)(ii)

(ii) Pursuing a full course of study leading to or culminating in the award of a U.S. degree from a post-secondary accredited ~~educational~~ academic institution; or

62.4(a)(1)(iii)

(iii) Engaged full-time in a prescribed course of study of up to 24 months (non-degree) duration conducted by:

(A) A post-secondary accredited ~~educational~~ academic institution; or

(B) An institute approved by or acceptable to the post-secondary accredited ~~educational~~ academic institution where the student is to be enrolled upon completion of the non-degree program;

62.4(a)(2)

(2) Engaged in academic training as permitted in § 62.23(f); or

62.4(a)(3)

(3) Engaged in English language training at:

(i) A post-secondary accredited ~~educational~~ academic institution, or

(ii) An institute approved by or acceptable to the post-secondary accredited ~~educational~~ academic institution where the college or/ university student is to be enrolled upon completion of the language training.

62.4(a)(4)

(4) engaged full-time in a student internship program conducted by a post-secondary accredited educational institution.

This new paragraph recognizes the student intern category. Note that it references "educational" institution rather than the new "academic" institution term. That may be a drafting oversight.

62.4(b)

(b) *Short-term scholar.* A foreign national who is a professor, research scholar, or person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited ~~educational~~ academic institutions, or similar type of institutions.

62.4(c)

(c) *Trainee.* ~~An individual~~ foreign national participating in a structured and guided work-based training program ~~conducted by the selecting sponsor.~~ in his or her specific occupational field and who has either:

(1) A degree or professional certificate from a foreign post-secondary academic institution and at least one year of prior related work experience in his or her occupational field acquired outside the United States; or

(2) Five years of work experience in his or her occupational field acquired outside the United States. Training is limited to the occupational category or categories for which a sponsor has obtained designation.

62.4(d)

(d) *Teacher.* ~~An individual~~ foreign national with a minimum of three years of teaching experience for the purpose of teaching full-time in a primary or secondary accredited ~~educational~~ academic institution.

62.4(e)

(e) *Professor.* ~~An individual~~ foreign national whose primary purpose is primarily teaching, lecturing, observing, or consulting at post-secondary accredited ~~educational~~ academic institutions, museums, libraries, or similar types of institutions. A professor may also conduct research, unless disallowed by the sponsor.

62.4(f)

(f) *Research scholar.* ~~An individual~~ foreign national whose primary purpose is primarily conducting research, observing, or consulting in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational academic institutions, or similar types of institutions. ~~The A~~ research scholar may also ~~teach or~~ lecture, unless disallowed by the sponsor.

62.4(g)

(g) *Specialist.* ~~An individual~~ foreign national who is an expert in a field of specialized knowledge or skills ~~coming to~~ who enters the United States for observing, consulting, or demonstrating special knowledge or skills.

62.4(h)

(h) *Other person of similar description.* ~~An individual~~ foreign national of description similar to those set forth in paragraphs (a) through (g) of this section coming to the United States, ~~in a~~ as a participant in an exchange visitor program designated by the Department of State under this category, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training. The programs designated by the Department of State in this category consist of:

62.4(h)(1)

(1) *Alien physician.* A foreign national who is a graduate of a school of medicine who is coming to the United States under a program in which he or she will receive graduate medical education or training conducted by accredited U.S. schools of medicine or scientific institutions.

62.4(h)(3)

~~(1)(2)~~ *International visitor.* ~~An individual~~ foreign national who is a recognized or potential leader, selected by the Department of State for ~~consultation~~ ing, ~~observation~~ ing, ~~conducting~~ ing research, training, or ~~demonstration~~ ing of special skills in the United States.

62.4(h)(3)

~~(2)(3)~~ *Government visitor.* ~~An individual~~ foreign national who is an influential or distinguished person, selected by a U.S. ~~Federal, s~~ Federal, s State, or local government agency for ~~consultation~~ ing, ~~observation~~ ing, training, or ~~demonstration~~ ing of special skills in the United States.

62.4(h)(4)

~~(3)(4)~~ *Camp counselor.* ~~An individual~~ foreign national selected to be a counselor in a summer camp in the United States (e.g., during the U.S.

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summer months), who imparts skills to American campers and information about his or her country or culture.

62.4(h)(5)

(5) *Au pair*. A foreign national who comes to the United States for a period of one year for the purpose of residing with an American host family and participate directly in their home life, while providing limited childcare services, and fulfilling an educational requirement.

62.4(h)(6)

(6) *Summer Work and Travel*. A foreign national who is a bona fide foreign post-secondary student currently enrolled in and actively pursuing a degree or a full-time course of study at a foreign accredited post-secondary academic institution whose purpose is work and travel in the United States for up to four months during his or her summer vacation.

62.4(h)(7)

(7) *Intern*. A foreign national participating in a structured and guided work-based internship program in his or her specific academic field and who is either:

(i) Currently enrolled full-time in and actively pursuing studies at a degree- or certificate-granting post-secondary academic institution outside the United States; or

(ii) Graduated from such an institution no more than 12 months prior to the exchange visitor program begin date reflected on the Form DS- 2019.

62.5

§ 62.5 *Application procedure*

62.5(a)

(a) Any entity meeting the eligibility requirements set forth in § 62.3 may apply to the Department of State for designation as an **Exchange Visitor Program** sponsor. Such application shall be made on Form DS-3036 (“Exchange Visitor Program Application”) and filed with the Department of State’s Exchange Visitor Program Services. Designation will not be considered if an applicant cannot meet the eligibility requirements set forth in § 62.3. An applicant must first complete and submit Form DS-3036 in SEVIS. The complete application must consist of:

(1) A completed copy of Form DS- 3036 signed by the applicant’s Chief Executive Officer, President, or equivalent;

(2) Required supporting documentation and certifications as set forth herein; and

(3) Confirmation of payment of the required fee through pay.gov as set forth in § 62.17.

62.5(b)

(b) The complete application ~~shall~~ must set forth, in detail, the applicant's proposed exchange program activity and ~~shall~~ must demonstrate, to the Department of State's sole satisfaction, its prospective ability to comply with Exchange Visitor Program regulations the applicant's ability to meet the designation requirements set forth in § 62.3 and the sponsor obligations set forth in § 62.9.

62.5(c)

(c) ~~The application shall be signed by the chief executive officer of the applicant and must also provide~~ Applications must be accompanied by the following supporting documents:

62.5(c)(1)

(1) Evidence of legal status of the applicant as a U.S. corporation, partnership, or other legal entity (e.g., charter, proof of incorporation, partnership agreement, as applicable) ~~and current certificate of good-standing~~ as set forth in § 62.3(a);

~~(2) Evidence of financial responsibility as set forth at §62.9(e);~~

~~(3) Evidence of accreditation if the applicant is a post-secondary educational institution;~~

~~(4) Evidence of licensure, if required by local, state, or federal law, to carry out the activity for which it is be designated;~~

~~(5) Certification by the applicant (using the language set forth in appendix A) that it and its responsible officer and alternate responsible officers are citizens of the United States as defined at §62.2; and~~

~~(6) Certification signed by the chief executive officer of the applicant that the responsible officer will be provided sufficient staff and resources to fulfill his/her duties and obligations on behalf of the sponsor.~~

62.5(c)(2)

(2) Evidence of experience in operating a successful business, including a minimum of three years of experience in international exchange by the organization or by the proposed RO;

notes

62.5(c)(3)

(3) Evidence of the applicant's financial viability as set forth in § 62.9(e) and any supplemental or explanatory financial information the Department of State may request.

62.5(c)(3)(i)

(i) An established organization must present a current audit report with audit notes prepared by an independent certified public accounting firm.

62.5(c)(3)(ii)

(ii) A newly formed organization must present a compilation (a balance sheet, statement of cash flows and all disclosures, revenues, expenditures, and notes to financial statements) prepared by an independent certified public accounting firm demonstrating that the organization has been capitalized with sufficient funds to cover general operating expenses and costs associated with an exchange;

62.5(c)(3)(iii)

(iii) The Department of State may, in its sole discretion, condition its approval of 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 guaranteeing the sponsor's obligations hereunder.

62.5(c)(4)

(4) A current Certificate of Good Standing or Certificate of Existence;

62.5(c)(5)

(5) Employer Identification Number (EIN) and Date of Issuance;

62.5(c)(6)

(6) A current Business Information Report on the applicant organization from Dun & Bradstreet;

62.5(c)(7)

(7) Evidence of current accreditation if the applicant is a secondary or postsecondary academic institution;

62.5(c)(8)

(8) Evidence of current licensure, if required by local, state, or Federal law, to carry out the activity for which it is seeking designation;

notes

62.5(c)(9)

(9) A statement signed by the Chief Executive Officer, President, or equivalent certifying that:

62.5(c)(9)(i)

(i) The applicant is a citizen of the United States as defined in § 62.2.

62.5(c)(9)(ii)

(ii) The proposed RO and all proposed ARO(s) are United States citizens or lawful permanent residents.

notes

62.5(c)(9)(iii) - background checks

(iii) The sponsor has completed a criminal background check on the potential RO and all ARO(s) and has determined their suitability for these positions:

Criminal background checks have been required since 2005 for ROs and AROs of secondary school student programs. The proposed rule adds this requirement for all J program categories. DOS estimates a cost of about \$15 per RO and ARO. The results of the checks do not have to be submitted to DOS, but the CEO, President, or other similar official must submit a certification that the organization's RO and AROs have undergone a criminal background check as supporting documentation for designation, redesignation, or adding a RO or ARO. The sponsor or applicant must maintain these records and provide them to DOS upon request. Any review would have to include at least these 3 areas of inquiry: 1) whether the RO and AROs are U.S. citizens or U.S. lawful permanent residents; 2) whether any record of past criminal activity should disqualify them from the positions; and 3) whether there is pertinent information regarding their suitability for the proposed position such as credit-worthiness or whether they have a criminal record that would prevent their appointment. DOS requires the check to be done by a bona fide a bona fide background screener. DOS does not sanction any particular screening organization, but does mention that the only known membership organization of bona fide background screeners is the National Association of Professional Background Screeners (NAPBS see www.NAPBS.com).

62.5(c)(9)(iv)

(iv) The RO will be provided sufficient staff and resources to fulfill his or her duties and obligations on behalf of the applicant:

notes

62.5(c)(10)

(10) Evidence that the proposed RO and ARO(s) are citizens of the United States or lawful permanent residents of the United States (e.g. copy of passport, birth certificate);

62.5(c)(11)

(11) A completed SEVIS generated Citizenship Certification for the proposed RO and all proposed ARO(s);

62.5(c)(12)

(12) Such additional information or documentation that the Department of State may deem necessary to evaluate the application.

62.5(d)

~~(d) The Department of State may request any additional information and documentation which it deems necessary to evaluate the application.~~

62.6

§ 62.6 *Designation.*

(a) Upon a ~~its~~ favorable determination that ~~the proposed exchange program~~ an applicant meets all statutory and regulatory requirements, the Department of State may, in its sole discretion, designate ~~an entity~~ the applicant meeting the eligibility requirements set forth in §62.3 as an ~~eExchange vVisitor pProgram~~ sponsor. Initial designations are effective for one or two years at the sole discretion of the Department. The initial designation period for a newly formed organization will be limited to one year.

(b) Designation ~~shall~~ will confer upon the sponsor authority to engage in one or more activities specified in § 62.4. ~~A sponsor shall not engage in activities not specifically authorized in its written designation~~ A sponsor may engage only in the activity or activities specifically authorized in its written letter of designation.

~~(c) Designations are effective for a period of five years. In its discretion, the Department of State may designate programs, including experimental programs, for less than five years.~~

~~(d)~~(c) Designations are not transferable or assignable.

62.7

§ 62.7 *Redesignation.*

~~(a) Upon expiration of a given designation term, a sponsor may seek redesignation for another five year term.~~

The proposed rule completely revises the redesignation regulation.

~~(b) To apply for redesignation, a sponsor shall advise the Exchange Visitor Program Services by letter or by so indicating on the annual report.~~

~~(c) Request for redesignation shall be evaluated according to the criteria set forth at §62.6(a) taking into account the sponsor's annual reports and other documents reflecting its record as an exchange visitor program sponsor.~~

~~(d) A sponsor seeking redesignation should notify the Department of State, as set forth in (b) of this section, no less than four months prior to the expiration date of its designation. A sponsor seeking redesignation may continue to operate its program(s) until such time as the Department of State notifies it of a decision to amend or terminate its designation.~~

62.7(a)

(a) A sponsor must file for redesignation no more than six months and no fewer than three months before the designation expiration date as set forth in the sponsor's letter of designation or its most recent letter of redesignation. Failure to apply for redesignation according to this schedule is cause for termination pursuant to § 62.60(g).

Sets a 3-month window during which redesignation applications must be filed.

62.7(b)

(b) A sponsor seeking redesignation as an Exchange Visitor Program sponsor must first complete and submit Form DS-3036 in SEVIS. The complete application must consist of:

Elements of a "complete application" for redesignation

(1) A completed copy of Form DS- 3036, signed by the sponsor's Chief Financial Officer, President or equivalent;

(2) Required supporting documentation and certifications as set forth herein; and

(3) Confirmation of payment of the required non-refundable fee through pay.gov as set forth in § 62.17.

62.7(c)

(c) The complete application must include the following supporting documentation and certifications:

Required supporting documentation and certifications are extensive, and include new items, such as a Dun & Bradstreet business information report, a copy of the most recent year-end financial statement, and a copy of the most recent letter of accreditation if the sponsor is an academic institution.

(1) A current Business Information Report from Dun & Bradstreet on the sponsor;

(2) A list of all third parties (foreign and domestic) with whom the sponsor has executed a written agreement for the person or entity to act on behalf of the sponsor in the conduct of the sponsor's exchange visitor program and, if requested by the Department of

notes

State, a separate certification that the sponsor has obtained a Dun & Bradstreet Business Information Report for each third party. The list should include the name of the third party organization, address of the third party organization, purpose for agreement, and contact information:

(3) A copy of the most recent year-end financial statements:

(4) A copy of the most recent letter of accreditation if the sponsor is a secondary or post-secondary academic institution;

62.7(c)(5)

(5) A list of the names, addresses and citizenship of the current members of its Board of Directors or the Board of Trustees or other like body, vested with the management of the organization or partnership, and/or the percentage of stocks/shares held, as applicable:

Although the regulations have always required Boards to be comprised of a majority of U.S. citizens or permanent residents, this documentation element requires the "citizenship" of each Board member to be listed.

(6) For a non-profit organization, a signed copy of the sponsor's most recent Form 990 filed with the Internal Revenue Service:

(7) Such additional information or documentation that the Department of State may request.

(8) A statement signed by the Chief Executive Officer, President, or equivalent certifying that the sponsor has completed a criminal background check on the RO and all AROs and has determined their suitability for these positions:

Criminal background checks on the RO and all AROs that are appointed. A statement that these checks have been completed is a required part of the recertification package. Also see note at [62.5\(c\)\(9\)\(iii\) - background checks](#) on page 18.

(9) Such additional information or documentation that the Department of State may deem necessary to evaluate the application.

(d) Upon its favorable determination that a sponsor meets all statutory and regulatory requirements, the Department of State may, in its sole discretion, redesignate the organization as an Exchange Visitor Program sponsor for one or two years.

62.8

§ 62.8 *General program requirements.*

62.8(a)

(a) *Size of program.* ~~Sponsors~~ A sponsor, other than a Federal government agency, ~~shall~~ must have no less fewer than five actively participating exchange visitors ~~per calendar year~~ during the annual reporting cycle (e.g., academic, calendar or fiscal) as stated in its letter of designation or redesignation. The Department of State may, in its sole discretion and for good cause shown, ~~reduce~~ waive this requirement.

notes

62.8(b)

(b) *Minimum duration of program.* ~~Sponsors~~ A sponsor, other than a Federal government agency, ~~shall~~ must provide each exchange visitor, except those sponsored in the short-term scholars category, with a minimum period of participation in the United States of no less than three weeks.

62.8(c)

(c) *Reciprocity.* In ~~the conducting of their exchange programs~~ its exchange visitor program, ~~sponsors shall~~ a sponsor must make a good faith effort to ~~achieve~~ develop and implement, to the fullest extent possible ~~reciprocity in the,~~ a reciprocal exchange of persons.

62.8(d)

(d) *Cross-cultural activities.* ~~Sponsors~~ A sponsor shall must:

(1) Offer or make available to exchange visitors and the accompanying spouse and dependents, if any, a variety or appropriate cross-cultural activities. The extent and types of the cross-cultural activities shall be determined by the needs and interests of the particular category of exchange visitor. ~~Sponsors~~ A sponsor will be responsible ~~to determine for~~ determining the appropriate type and number of such cross-cultural programs ~~for their exchange visitors.~~ The Department of State encourages sponsors to give their exchange visitors the broadest exposure to American society, culture and institutions; and

The proposed rule would require to make appropriate cross-cultural activities available to dependents as well as the principal exchange visitor.

(2) Encourage exchange visitors to ~~voluntarily~~ participate voluntarily in activities ~~which that~~ are for the purpose of sharing the language, culture, or history of their home country with Americans, provided such activities do not delay the completion of the exchange visitors' programs.

62.9

§ 62.9 *General obligations of sponsors.*

62.9(a)

(a) *Adherence to Department of State regulations.* ~~Sponsors~~ A sponsor ~~are~~ is required to adhere to all regulations set forth in this Part. A sponsor who willfully or negligently fails to comply will be subject to the sanctions set forth in § 62.50 or termination as set forth in § 62.60.

62.9(b)

(b) *Legal status.* ~~Sponsors~~ A sponsor shall must maintain legal status or its designation will terminate pursuant to § 62.60(e). A sponsor's change in a ~~sponsor's~~ legal status (e.g., from partnership to corporation, non-profit to for-profit) ~~shall requires application~~ the submission of a new application for designation of the ~~new~~ successor legal entity within 45 days of the change in legal status.

62.9(c)

(c) *Accreditation and licensure.* ~~Sponsors~~ A sponsor shall must remain in compliance with all local, state, and federal laws, and professional requirements necessary to carry out the activityies for which ~~they are~~ it is designated, including accreditation and licensure, if applicable.

62.9(d)

(d) *Representations and disclosures.* ~~Sponsors~~ A sponsor shall must:

(1) Provide accurate and complete information, to the extent lawfully permitted, to the Department of State and the Department of Homeland Security regarding ~~their~~ its exchange visitor programs and, exchange visitors, and accompanying spouse and dependants (if any);

(2) Provide ~~only~~ accurate information to the public when advertising ~~their~~ its exchange visitor programs(s) or responding to public inquiries;

(3) Provide informational materials to prospective exchange visitors-~~which~~, and host families, if applicable, that clearly explain the activities, costs, conditions, and restrictions of ~~the~~ its exchange visitor programs(s);

(4) Not use program numbers(s) assigned by the Department of State at the time of designation on any advertising materials or publications intended for general circulation, including sponsor Web sites; and

(5) Not represent that ~~any~~ its exchange visitor program is endorsed, sponsored, or supported by the Department of State or the ~~United States~~ U.S. Government, except for ~~United States~~ U.S. Government sponsors or exchange visitor programs financed directly by the ~~United States~~ U.S. Government to promote international educational exchanges. ~~However,~~ A sponsors may, however, represent that ~~they are~~ it is designated by the Department of State as a sponsor of an exchange visitor program.

62.9(e)

(e) *Financial responsibility.*

(1) ~~Sponsors~~ A sponsor shall must maintain the financial capability to meet at all times ~~their~~ its financial obligations and responsibilities attendant to successful sponsorship of ~~their~~ its exchange visitor programs.

(2) The Department of State may require a non-government sponsors to provide evidence satisfactory to the Department of State that funds necessary to fulfill all obligations and responsibilities attendant to sponsorship of its exchange visitors are readily available and in the sponsor's control, including such supplementary or explanatory financial information as the Department of State may deem appropriate ~~such as, for example, audited financial statements.~~

(3) The Department of State may require ~~any~~ non-government sponsor to secure a payment bond in favor of the Department of State guaranteeing all financial obligations arising from the sponsorship of its exchange visitors program.

62.9(f)

(f) *Staffing and support services.* ~~Sponsors~~ A sponsor shall must ensure that:

(1) Adequate staffing and sufficient support services are provided to administer their exchange visitor programs; and

(2) ~~That their~~ its employees, officers, agents, independent contractors, and third parties, volunteers or other individuals involved in associated with the administration of ~~their~~ its exchange visitor programs are adequately qualified, appropriately trained, and comply with the Exchange Visitor Program regulations and immigration laws pertaining to the administration of its exchange visitor program(s).

62.9(g)

(g) *Appointment of responsible officer* Responsible Officers and Alternate Responsible Officers.

62.9(g)(1)

(1) ~~Sponsors~~ A sponsor shall must appoint a ~~responsible officer~~ RO and a minimum of one (1) or a maximum of ten (10) AROs ~~such alternate responsible officers as may be necessary to~~ assist the RO in performing the duties set forth at § 62.11. A sponsor must ensure that the potential RO and AROs have undergone a criminal background check to determine their suitability for these positions. ROs and AROs must be citizens of the United States or legal permanent residents.

Also see note at [62.5\(c\)\(9\)\(iii\) - background checks](#) on page 18.

62.9(g)(2)

(2) ~~The responsible officer and alternate responsible officers shall~~ ROs and AROs must be employees or officers of the designated sponsor. ~~The~~ Upon written sponsor request, the Department of State may, ~~however,~~ in its sole discretion, authorize the appointment of an individual who is not an employee or officer to serve as an ~~alternate responsible officer, when approved by the sponsor~~ an ARO.

62.9(g)(3)

(3) The Department of State may ~~limit the number of alternate responsible officers appointed by the sponsor.~~ In the event of the departure of a RO or ARO, the sponsor must file a request for the approval of a replacement in SEVIS and forward the required documentation to the Department of State within ten (10) calendar days from the date of the RO's or ARO's departure.

notes

62.9(g)(4)

(4) Requests to replace the RO or add an ARO must be submitted in SEVIS and a signed Form DS-3037 mailed to the Department of State with the required completed Citizenship Certification, along with certification that the individual has undergone a criminal background check.

Replacing an RO or adding an ARO is initiated in SEVIS, and must be followed with a signed DS-3037 with citizenship certification, and certification that a criminal background check has been completed. Also see note at [62.5\(c\)\(9\)\(iii\) - background checks](#) on page 18.

62.9(g)(5)

(5) The Department of State reserves the right, in its sole discretion, to deny the appointment of an RO or ARO.

Although DOS probably already had the discretion to say “no” to an institution’s appointment of a RO or ARO, the proposed rule makes explicit this discretion.

62.10

§ 62.10 *Program administration.*

~~Sponsors are~~ A sponsor is responsible for the effective administration of ~~their~~ its exchange visitor programs~~(s)~~. These responsibilities include:

62.10(a)

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

62.10(a)(1)

(1) The program is suitable to the exchange visitor's background, needs, and experience; and

62.10(a)(2)

(2) The exchange visitor possesses sufficient proficiency in the English language as measured by an objective measurement of English language proficiency to participate successfully in his or her exchange visitor program.

Sponsors already have to determine that a prospective exchange visitor has sufficient English proficiency for the exchange. The proposal requires the sponsor to measure English proficiency through “an objective measurement.” DOS does not offer an explanation in the proposed rule’s supplementary information regarding the reason for this change.

62.10(b)

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

- (1) The purpose of the Exchange Visitor Program;
- (2) ~~H~~The home-country physical presence requirement (e.g., section 212(e) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1182, set forth substantially at 22 CFR 41.63);
- (3) Travel and entry into the United States (e.g., procedures to be followed by exchange visitors and accompanying spouse and dependents, if any, in obtaining a visa for entry to the United States, paying the SEVIS fee, procedures for obtaining a visa including the information/documentation needed for the interview; travel arrangements to the United States, what to expect at the port of entry, including the necessity of having and presenting their travel documents at the port of entry);
- (4) Housing;
- (5) ~~Fees payable to the sponsor~~ A breakdown of all fees to be paid by potential exchange visitors (i.e., paid to the sponsor or a third party);
- (6) Other costs that the exchange visitor will likely incur (e.g., insurance, living expenses, transportation expenses) while in the United States;
- (7) Health care and insurance requirements for exchange visitors and their accompanying spouse and dependants, as applicable; and
- (8) Arrival notification requirements; e.g., procedures that exchange visitors, spouses and dependents are to follow upon entry into the United States in reporting their arrival to the sponsor and reporting to the location of their program.
- ~~(8)~~(9) Other information which that will assist exchange visitors to prepare for their stay in the United States (e.g., how and when to apply for a social security number, if applicable; how to apply for a driver's license; how to open a bank account; how to remain in lawful nonimmigrant status).

62.10(c)

(c) *Orientation.* ~~Sponsors shall~~ A sponsor must offer appropriate orientation for all exchange visitors. Sponsors are encouraged to provide orientation for the exchange visitor's immediate family, especially for those exchange visitors who are expected to be in the United States for more than one year. Orientation ~~shall~~ must include, but is 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 fullest extent possible;

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

(4) A description of the program in which the exchange visitor is participating (e.g., information on the length and location of the program, a summary of the significant components of the program, and any stipend (payment or wage) an exchange visitor will receive);

(5) ~~Rules~~ Sponsor rules that the exchange visitors are required to follow ~~under the sponsor's~~ while participating in their exchange visitor program;

(6) ~~Address~~ Name and address of the sponsor and the name, e-mail address and telephone number of the ~~responsible officer~~ RO and AROs; and

(7) ~~Address and telephone number of the Exchange Visitor Program Services of the Department of State~~ The Department of State's Office of Designation's address, telephone number, facsimile number, Web site and e-mail address, and a copy of the Exchange Visitor Program brochure ~~outlining the regulations relevant to the exchange visitors, or other Department materials as appropriate or required; and~~

(8) The requirement that an exchange visitor must promptly report to the sponsor or sponsor designee any changes in his or her telephone number, email address, actual and current U.S. address, and site of activity (if permitted to change without sponsor authorization).

62.10(d)

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

62.10(d)

~~(e- d) Monitoring of exchange visitors. Sponsors shall~~ A sponsor must monitor, through employees, officers, agents, or third parties, the exchange visitor's ~~participating~~ participation in ~~their~~ its exchange visitor program(s). ~~Sponsors shall~~ A sponsor must:

62.10(d)(1)

(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;

notes

62.10(d)(2)

(2) Monitor the physical location (site of activity), and the progress and welfare of the exchange visitor to the extent appropriate for the category; ~~and~~

62.10(d)(3)

(3) Require ~~the~~that exchange visitors ~~to keep the sponsor apprised of his or her address and telephone number, and maintain such information report to the sponsor within ten (10) calendar days, any changes in their telephone numbers, email addresses, actual and current U.S. addresses (e.g., physical residence), and site(s) of activity address (if permitted to change without sponsor authorization);~~

62.10(d)(4)

(4) Report in SEVIS within ten (10) calendar days of notification by an exchange visitor any change in the exchange visitor's actual and current U.S. address, telephone number, email addresses, and/or primary site of activity (if the exchange visitor is permitted) to make such change without prior sponsor authorization;

62.10(d)(5)

(5) Report the actual and current U.S. address and email address for each accompanying spouse and dependents.

62.10(d)(6)

(6) Report Employment Authorization Document (EAD) information in SEVIS for the accompanying spouse and each dependent, if applicable, by entering the EAD number, validation and expiration dates as issued by the Department of Homeland Security.

This paragraph works in conjunction with proposed section [62.16\(c\)](#), that

62.10(~~d~~ e)

~~(d e)~~ Requests by the Department of State. Sponsors shall A sponsor must, 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~~ its exchange visitor programs. All submissions relative to a request must contain the sponsor's program number.

62.10(~~e~~ f)

~~(e f)~~ Inquiries and investigations. Sponsors shall A sponsor must cooperate with any inquiry or investigation that may be undertaken by the Department of State or the Department of Homeland Security.

~~(h g) Retention of records. Sponsors shall~~ A sponsor must retain all records related to ~~their~~ its exchange visitor programs and exchange visitors and its participants (to include accompanying spouse and dependents, if any) for a minimum of three years following the completion of each participant's exchange visitor program.

§ 62.11 *Duties of responsible officers.*

~~Responsible officers shall~~ The RO must train and supervise alternate-responsible officers AROs and ensure that these officials are in compliance with the Exchange Visitor Program regulations. Responsible officers and alternate responsible officers shall ROs and AROs must:

- ~~(a) Knowledge of regulations and codebook. Be thoroughly familiar with the Exchange Visitor Program regulations and the Department of State's current Codebook and Instructions for Responsible Officers~~ Be thoroughly familiar with the Exchange Visitor Program regulations, relevant immigration laws and all federal and state regulations pertaining to the administration of its exchange visitor program(s), including the Department of State's and the Department of Homeland Security's policies, manuals, instructions, guidance and SEVIS operations relevant to the Exchange Visitor Program.
- ~~(b) Advisement and assistance. Ensure that the exchange visitor obtains sufficient advice and assistance to facilitate the successful completion of the exchange visitor's~~ his or her exchange visitor program.
- ~~(c) Communications. Conduct the~~ all official communications relating to ~~the~~ their sponsor's exchange visitor program with the Department of State, the United States Immigration and Naturalization Service, or the United States Department of State and the Department of Homeland Security. Reference to the sponsor's program number shall be made on any correspondence with the Department of State A sponsor must include its exchange visitor program number on all correspondence submitted to the Department of State and to the Department of Homeland Security.
- ~~(d) Ensure that sponsor spam filters do not block reception of SEVIS or Department of State and Department of Homeland Security notices; and~~
- ~~(d e) Custody of the Form DS-2019. Act as custodian for the control, issuance, and distribution of Forms DS-2019 as set forth in §62.12~~ Control and issue Forms DS-2019 as set forth in § 62.12.

§ 62.12 *Control of Forms DS-2019.*

~~Forms DS-2019 shall be used only for authorized purposes. To maintain adequate control of Forms DS-2019, responsible officers or alternate responsible officers shall:~~

62.12(a)

~~(a) *Requests.* Submit written requests to the Department of State for a one-year supply of Forms DS-2019, and allow four to six weeks for the distribution of these forms. The Department of State has the discretion to determine the number of Forms DS-2019 to be sent to a sponsor. The Department of State will take into consideration the current size of the program and the projected expansion of the program in the coming 12 months. If requested, the Department of State will consult with the responsible officer prior to determining the number of Forms DS-2019 to be sent to the sponsor. Additional forms may be requested later in the year if needed by the sponsor.~~

(a) Issuance of Forms DS-2019. A sponsor must:

62.12(a)(1)

(1) Ensure that only the RO and AROs have access to SEVIS;

62.12(a)(2)

(2) Ensure that information input into SEVIS is accurate, current, and updated pursuant to regulations herein; and

62.12(a)(3)

(3) Issue Forms DS-2019 only for the following authorized purposes:

62.12(a)(3)(i)

(i) To facilitate the initial entry of the exchange visitor and accompanying spouse and dependents, if any, into the United States;

62.12(a)(3)(ii)

(ii) To extend the duration of participation of an exchange visitor, when permitted by the regulations;

62.12(a)(3)(iii)

(iii) To facilitate program transfers, when permitted by the regulations and/or authorized in writing by the Department of State;

notes

- 62.12(a)(3)(iv)**
- (iv) To replace lost, stolen, or damaged Forms DS-2019;
- 62.12(a)(3)(v)**
- (v) To facilitate the re-entry of an exchange visitor and accompanying spouse and dependents, if any, who travel outside the United States during the exchange visitor's program;
- 62.12(a)(3)(vi)**
- (vi) To facilitate a change of category, when permitted by the Department of State;
- 62.12(a)(3)(vii)**
- (vii) To update information when significant changes take place in regard to the exchange visitor's program (e.g., a substantial change in funding or a change in the primary site of activity or actual and current U.S. address);
- 62.12(a)(3)(viii)**
- (viii) To facilitate the correction of a minor or technical infraction; or
- 62.12(a)(3)(ix)**
- (ix) To facilitate a "reinstatement" or a "reinstatement update SEVIS status" when permitted by the Department of State.
- 62.12(b)**
- (b) Verification.*
- 62.12(b)(1)**
- (1) Prior to issuing Forms DS-2019, a sponsor must verify that the each prospective exchange visitor:
- 62.12(b)(1)(i)**
- (i) Is eligible, qualified, and accepted for the program in which he or she will be participating participate, (e.g., has an offer letter from a camp, a written acceptance from a secondary school);
- 62.12(b)(1)(ii)**
- (ii) Possesses adequate financial resources to participate in and complete his or her exchange visitor program; and

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62.12(b)(1)(iii)

(3 iii) Possesses adequate financial resources to support any an accompanying spouse and dependents, if any.

62.12(b)(2)

(2) The sponsor must ensure that:

62.12(b)(2)(i)

(i) Only the RO or ARO who is physically present in the United States or in a U.S. territory may print and sign Forms DS-2019; and

62.12(b)(2)(ii)

(ii) Only the RO or ARO whose name is printed on the Form DS-2019, is permitted to sign the document. The Form DS-2019 must be signed in blue ink to denote that it is the original document.

62.12(b)(2)(iii)

(iii) Sponsors for whom the RO or AROs have been found to have violated the requirements of this section will be subject to sanctions as set forth in §62.50(a)(2).

62.12(c)

~~(c) Issuance of Form DS-2019. Issue the Form DS-2019 only so as to:~~

Current section 62.12(c) would be moved to 62.12(a)(3) with only slight modifications.

~~(1) Facilitate the entry of a new participant of the exchange visitor program;~~

~~(2) Extend the stay of an exchange visitor;~~

~~(3) Facilitate program transfer;~~

~~(4) Replace a lost or stolen Form DS-2019;~~

~~(5) Facilitate entry of an exchange visitor's alien spouse or minor unmarried children into the United States separately;~~

~~(6) Facilitate re-entry of an exchange visitor who is traveling outside the United States during the program;~~

~~(7) Facilitate a change of category when permitted by the Department of State; and~~

~~(8) Update information when significant changes take place in regard to the exchange visitor's program, such as a substantial change in funding or in the location where the program will take place.~~

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(c) Distribution of Forms DS-2019. The sponsor must ensure that completed Forms DS- 2019 are distributed directly to the exchange visitor and accompanying spouse and dependents, if any, (or to an individual designated by the exchange visitor) only via the sponsor's employees, officers, agents, independent contractors, third parties, volunteers, or other individuals acting on behalf of the sponsor in the administration of its exchange visitor program.

Proposed 62.12(c) takes the place of current 62.12(d). The proposal removes the clause in the current rule [62.12(d)(4)] that allows an exchange visitor to designate an individual to receive a completed DS-2019 on his or her behalf. The proposal allows only the sponsor to designate someone other than the exchange visitor.

62.12(d)

~~(d) Safeguards.~~

~~(1) Store Forms DS- 2019 securely to prevent unauthorized use;~~

~~(2) Prohibit transfer of any blank Form DS- 2019 to another sponsor or other person unless authorized in writing (by letter or facsimile) by the Department of State to do so;~~

~~(3) Notify the Department of State promptly by telephone (confirmed promptly in writing) or facsimile of the document number of any completed Form DS- 2019 that is presumed lost or stolen or any blank Form DS- 2019 lost or stolen; and~~

~~(4) Forward the completed Form DS- 2019 only to an exchange visitor, either directly or via an employee, officer, or agent of the sponsor, or to an individual designated by the exchange visitor.~~

(d) Allotment requests.

(1) Annual Form DS-2019 allotment. A sponsor must submit an electronic request via SEVIS to the Department of State for an annual allotment of Forms DS-2019 based on the annual reporting cycle (e.g., academic, calendar or fiscal year) stated in its letter of designation or redesignation. A sponsor should allow up to four weeks for the processing of the allotment request. The Department has the sole discretion to determine the number of Forms DS-2019 to be issued to a sponsor.

(2) Expansion of Program. A request for program expansion must include information such as, but not limited to, the source of program growth, staff increases, confirmation of adequately trained employees, current financial information, additional overseas affiliates, and explanations of how the sponsor will accommodate the anticipated program growth. The Department of State will take into consideration the current size of a sponsor's program and the projected expansion of the program in the coming 12 months and may

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consult with the RO and/or ARO prior to determining the number of Forms DS-2019 to issue to a sponsor.

62.12(e)

~~(e) Accounting.~~

~~(1) Maintain a record of all Forms DS-2019 received and/or issued by the sponsor;~~

~~(2) Destroy damaged and unusable Form DS-2019 on the sponsor's premises after making a record of such forms (e.g. forms with errors or forms damaged by a printer); and~~

~~(3) Request exchange visitors and prospective exchange visitors to return any unused Form DS-2019 sent to them and make a record of Forms DS-2019 which are returned to the sponsor and destroy them on the sponsor's premises.~~

The "accounting" section of the current rule is incorporated into "safeguards and controls" in the proposed rule, and modernized to address the use of SEVIS.

(e) Safeguards and controls.

62.12(e)(1)

(1) ROs and AROs must secure their SEVIS logon Identification Numbers (IDs) and passwords at all times (i.e., not share IDs and passwords with any other person). Sponsors whose ROs or AROs have been found to have willfully or negligently violated the requirements of this section will be subject to sanctions as set forth in § 62.50(a).

62.12(e)(2)

(2) A sponsor, its employees, officers, agents, or other third parties acting on behalf of the sponsor, may not forward to any unauthorized party (via facsimile or other electronic means) copies or Portable Document Formats (PDFs) of signed or unsigned Forms DS-2019. However, a sponsor must forward such copies and/or PDFs to the Department of State or the Department of Homeland Security upon request.

This paragraph prohibits forwarding PDF copies of Form DS-2019 to anyone other than DOS or DHS.

62.12(e)(3)

(3) A sponsor must use the reprint function in SEVIS in the event the exchange visitor's Form DS-2019 has been lost or stolen.

62.12(e)(4)

(4) Destroy damaged and unusable Form DS-2019 on the sponsor's premises after making a record of such forms (e.g., forms with errors or forms damaged by a printer).

This requirement is also in the current rule.

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62.12(e)(5)

(5) Request exchange visitors and prospective exchange visitors to return any unused Form DS-2019 sent to them.

This requirement is also in the current rule.

62.13

§ 62.13 *Notification requirements.*

62.13(a)

(a) Valid program status of exchange visitor. A sponsor must notify the Department of State via SEVIS of the following:

62.13(a)(1)

(1) Validation of program participation. A sponsor must promptly validate an exchange visitor's participation in his or her program and accompanying spouse and dependents, if any. This will change the status of the exchange visitor's SEVIS record from "Initial" to "Active." SEVIS records with program durations of 30 days or more (e.g., the period between the "Program Begin Date" to "Program End Date") must be validated within 30 days following the "Program Begin Date" identified in SEVIS. SEVIS records with program durations that are less than 30 days must be validated prior to the "Program End Date" reflected in SEVIS. Prior to validation, a sponsor may amend the program start date and must update the SEVIS record to reflect the actual and current U.S. address and site of activity in SEVIS. The status of SEVIS records that are not validated according to this schedule will automatically change to "Invalid" or "No Show".

This paragraph updates the regulatory language to include SEVIS Validation, which is already a current required SEVIS practice that satisfies statutory reporting requirements. For programs of more than 30 days duration, the record must be Validated within 30 days of the Program Begin Date. Programs of less than 30 days must be validated before the Program End Date. The paragraph also describes the steps required in the Validation process. This would replace the current validation of program participation language at § 62.72(d).

62.13(a)(2)

(2) Failure of exchange visitor to begin program. A sponsor must report in SEVIS, no later than 30 calendar days after the "Program Begin Date" listed in SEVIS, the failure of an exchange visitor to report to his or her sponsor upon entry in the United States (i.e., failure of exchange visitor to begin an exchange visitor program as scheduled). This will change the status of the exchange visitor's SEVIS record from "Initial" to "No Show".

The paragraph seems to apply only to exchange visitors who enter the U.S. but fail to report to their program (i.e., a "No Show"). Updating records of exchange visitors who fail to enter the U.S. does not appear to be addressed by this paragraph.

62.13(a)(3)

(3) End of exchange visitor's program. A sponsor must report in SEVIS any withdrawal from or early completion of an exchange visitor's program that occurs prior to the "Program End Date" listed in SEVIS on the exchange visitor's Form DS-2019. The sponsor must not alter the "Program End Date" field, but should enter the date of

Sponsors would use the "End Program" function (SEVIS I) to report withdrawal or early completion of an exchange visitor's program.

program completion in the “Effective Date of Completion” field. This will change the status of the exchange visitor's SEVIS record from “Active” to “Inactive.” Such notification in SEVIS ends a sponsor's programmatic obligations to the exchange visitor and/or his or her accompanying spouse and dependents.

62.13(a)(4)

(4) Accompanying spouse and dependent records. A sponsor must report in SEVIS if an accompanying spouse and/or dependents depart from the United States prior to the exchange visitor's departure date.

This would add a new requirement to update SEVIS when a J-2 dependent departs the U.S. prior to the J-1. There is no apparent statutory basis for this requirement.

62.13(a)(5)

(5) Termination of an exchange visitor's program. A sponsor must promptly report in SEVIS the involuntary termination of an exchange visitor's program. The sponsor must not alter the “Program End Date” field, but should enter the date of program termination in the “Effective Date of Termination” field. This will change the status of the SEVIS record from “Active” to “Terminated”. Such notification in SEVIS ends a sponsor's programmatic obligation to the exchange visitor and spouse and dependents, if any, and prevents the sponsor from thereafter extending the exchange visitor's duration of participation, transferring the exchange visitor to another program, or changing the exchange visitor's category. Sponsors must not terminate the program of an exchange visitor who voluntarily ends his or her program.

Sponsors would use the “Terminate Exchange Visitor” function (SEVIS I) to terminate the record of an exchange visitor. This paragraph does not specify the grounds for termination, which are found in other paragraphs and parts of the regulations.

62.13(b)

~~62.13(c) Program status of exchange visitor. Sponsors shall notify the Department of State in writing when:~~

~~(1) The exchange visitor has withdrawn from or completed a program thirty (30) or more days prior to the ending date on his or her Form DS-2019; or~~

~~(2) The exchange visitor has been terminated from his or her program.~~

Current § 62.13(c) [program status of exchange visitor] and 62.70(b) [current U.S. address] are replaced with a more detailed section on exchange visitor change of circumstance at proposed § 62.13(b).

~~62.70(b) Current U.S. address. Sponsors shall ensure that the actual and current U.S. address of all sponsored participants is reported to SEVIS. Sponsors shall update the actual and current U.S. address information for participants within 21 days of being notified by a participant of a change in his or her address. A sponsor's failure to update the actual and current U.S. address information within 21 days of receipt may be grounds for revocation of their Exchange Visitor Program status. Sponsors shall report a U.S. mailing address, i.e., P.O. box address, in those limited circumstances where mail cannot be delivered to the current and actual U.S. address. If a~~

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~~U.S. mailing address is reported to SEVIS, sponsors shall also maintain a record of the actual and current U.S. address, e.g., dorm, building and room number, for that exchange visitor.~~

(b) Change of circumstance of an exchange visitor. A sponsor must promptly notify the Department of State via SEVIS of any of the following circumstances:

62.13(b)(1)

(1) Change in the actual and current U.S. address. A sponsor must ensure that the actual and current U.S. addresses of an exchange visitor are reported in SEVIS:

Although the preface to the proposed rule states that this rule

62.13(b)(1)(i)

(i) A sponsor must update the actual and current U.S. address information in SEVIS for an exchange visitor within 10 days of being notified by an exchange visitor of a change in address. A sponsor who is responsible for the placement or housing of such exchange visitors must promptly update a change in the actual and current U.S. address in SEVIS:

The proposed rule would reduce the time sponsor have to update SEVIS with reported changes in exchange visitor address, from 21 days to 10 days.

62.13(b)(1)(ii)

(ii) A sponsor must report the U.S. mailing address (i.e., provide a P.O. Box number) in SEVIS in those limited cases where mail cannot be delivered to the exchange visitor's actual and current U.S. address (e.g., the exchange visitor resides in a campus setting):

This requirement is the same as under the current rule.

62.13(b)(1)(iii)

(iii) If a U.S. mailing address is reported to SEVIS, a sponsor must also maintain records in SEVIS of actual and current U.S. addresses (e.g., dormitory, building and room number) for such exchange visitors; and

This requirement is the same as under the current rule.

62.13(b)(1)(iv)

(iv) Failure to update the actual and current U.S. addresses of their exchange visitors as required, may be grounds for revocation of a sponsor's exchange visitor program designation, as set forth in § 62.50(a).

This requirement is the same as under the current rule.

62.13(b)(2)

(2) Change in site of activity. A sponsor must report in SEVIS any change to an exchange visitor's site of activity by entering the new site within ten (10) calendar days of notification of such a change where sponsor rules or regulations permit such a change. A sponsor must promptly enter any change in the site of activity in those

The proposed rule requires sponsors to update a change in the site of an exchange visitor's activity within 10 calendar days of being notified of the change.

instances where the sponsor is responsible for the placement. A sponsor must identify the “primary” site of activity of an exchange visitor if multiple sites of activity are reported in SEVIS.

62.13(c)

~~62.13(a) *Change of circumstances.* Sponsors shall notify the Department of State promptly in writing of any of the following circumstances:~~

- ~~(1) Change of its address, telephone, or facsimile number;~~
- ~~(2) Change in the composition of the sponsoring organization which affects its citizenship as defined by §62.2;~~
- ~~(3) Change of the responsible officer or alternate responsible officers;~~
- ~~(4) A major change of ownership or control of the sponsor's organization;~~
- ~~(5) Change in financial circumstances which may render the sponsor unable to comply with its obligations as set forth in §512.9(e);~~
- ~~(6) Loss of licensure or accreditation;~~
- ~~(7) Loss or theft of Forms DS-2019 as specified at §62.12(d)(3);~~
- ~~(8) Litigation related to the sponsor's exchange visitor program, when the sponsor is a party; and~~
- ~~(9) Termination of its exchange visitor program.~~

The requirement to report changes in the circumstances of sponsors at § 62.13(a) of the current rule are maintained, but are expanded or clarified in proposed rule section 62.13(c). The reporting timeline is changed from “promptly” to “within 10 days.”

(c) *Change in sponsor's circumstance.* A sponsor must report within ten (10) days in SEVIS or directly to the Department of State, if appropriate, any material changes to its exchange visitor program as follows:

62.13(c)(1)

(1) Change of business and/or mailing address, telephone number, facsimile number, or email address;

62.13(c)(2)

(2) Change in the composition of the sponsor organization that affects its U.S. citizenship status as defined in § 62.2 which includes a new Employment Identification Number (EIN);

62.13(c)(3)

(3) Change of RO or ARO;

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- 62.13(c)(4)**
- (4) Major change of ownership or control of the sponsor's organization as defined in § 62.60(e):
- 62.13(c)(5)**
- (5) Change of the sponsor's principal place of business to a location outside the United States:
- 62.13(c)(6)**
- (6) Change in financial circumstances that may render the sponsor unable to comply with its obligations as set forth in § 62.9(e):
- 62.13(c)(7)**
- (7) Loss of licensure or accreditation:
- 62.13(c)(8)**
- (8) Loss or theft of Forms DS-2019, in which case a sponsor must notify the Department of State promptly by telephone (confirmed promptly in writing by facsimile or email) of the SEVIS identification numbers of such Forms DS-2019 that have been lost or stolen:
- 62.13(c)(9)**
- (9) Any litigation related to a sponsor's exchange visitor program, in which the sponsor or an exchange visitor is a named party:
- 62.13(c)(10)**
- (10) A decision by the sponsor to voluntarily cancel (withdraw) its exchange visitor program designation; or,
- 62.13(c)(11)**
- (11) Any other material facts or events that may have an impact on the sponsor's ability to properly administer or conduct its exchange visitor program.

62.13(d)

~~(b d)~~ *Serious problem or controversy.* ~~Sponsors shall~~ A sponsor must inform the Department of State ~~promptly~~ on or before the next business day by telephone (confirmed promptly in writing by facsimile or email) ~~or facsimile~~ of any serious problem or controversy which could be expected to bring the Department of State, the Exchange Visitor Program or the sponsor's exchange visitor program into notoriety or disrepute.

This paragraph is renumbered, and changes the deadline to report serious problems or controversies from "promptly" to "on or before the next business day."

notes

62.13(c)

62.14

§ 62.14 Insurance.

62.14(a)

(a) ~~Sponsors shall~~ A sponsor must require each ~~that all~~ exchange visitors ~~to~~ have insurance in effect ~~which that~~ covers the exchange visitor for sickness or accidents ~~during the period of time that an exchange visitor participates~~ they participate in the sponsor's exchange visitor program. A sponsor may offer insurance, but is not required, to ensure that exchange visitors have "entry to exit" coverage. The period of required coverage is the actual duration of the exchange visitor's participation in the sponsor's exchange visitor program. Minimum coverage ~~shall~~ must provide:

The proposed rule specifies the required period of insurance covered, and raises the coverage minimums for medical benefits, repatriation of remains, and medical evacuation. The cap on deductibles remains the same as in the current rule.

- (1) Medical benefits of at least ~~\$50,000~~ \$200,000 per accident or illness;
- (2) Repatriation of remains in the amount of ~~\$7,500~~ \$25,000;
- (3) Expenses associated with the medical evacuation of ~~the~~ exchange visitors s to his or her home country in the amount of ~~\$10,000~~; \$50,000 ~~and~~
- (4) ~~A deductible~~ Deductibles not to exceed \$500 per accident or illness; and

62.14(b)

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

- (1) May require a waiting period for pre-existing conditions ~~which that~~ is reasonable as determined by current industry standards;
- (2) May include provisions s 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~~ Must not unreasonably exclude coverage for perils inherent to the activities of the exchange program in which the exchange visitor participates.

62.14(c)

(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-i" 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~~ Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

62.14(d)

(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.

62.14(e)

(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.

62.14(f)

(f) The Department of State may, 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.

62.14(g)

(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~~ A sponsor must inform exchange visitors of this requirement, in writing, in advance of the exchange visitor's arrival in the United States.

62.14(h)

(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 misrepresentations 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.

notes

62.14(i)

(i) A sponsor ~~shall~~ **must** 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.

62.14(j)

(j) To ensure coverage levels remain consistent with industry standards, the Secretary may, at any time it is determined that the minimum levels of coverage described in § 62.14 are not sufficient, update minimum levels of coverage in guidance documents.

This new section would allow DOS to update insurance coverage levels through policy guidance documents, without going through the regulatory process.

62.15

§ 62.15 ~~Annual reports~~ Reporting requirements.

Sponsors ~~shall~~ **must** submit an annual report to the Department of State which is to be generated through SEVIS. An illustrative form of such report may be found at Appendix D to this part. Such report ~~shall~~ **must** be filed on an academic ~~or~~ calendar or fiscal year basis, as directed by the Department of State, and ~~shall~~ **must** contain the following:

Under 22 CFR [62.60\(c\)](#), failure to file an annual report for two consecutive years is a ground for termination of the sponsor's designation.

62.15(a)

(a) *Program report and evaluation.* A brief summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness;

62.15(b)

(b) *Reciprocity.* A description of the nature and extent of reciprocity occurring in the sponsor's exchange visitor program during the reporting year;

62.15(c)

(c) *Cross-cultural activities.* A summary of the cross-cultural activities provided for its exchange visitors during the reporting year;

62.15(d)

(d) *Proof of insurance.* Certification of compliance with insurance coverage requirements set forth in §62.14.

62.15(e)

~~(e) Form DS-2019 usage. A report of Form DS-2019 usage during the reporting year setting forth the following information:~~

~~(1) The total number of blank Forms DS-2019 received from the Department of State during the reporting year;~~

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~~(2) The total number of Forms DS-2019 voided or destroyed by the sponsor during the reporting year and the document numbers of such forms;~~

~~(3) The total number of Forms DS-2019 issued to potential exchange visitors that were returned to the sponsor or not used for entry into the United States; and~~

~~(4) The total number and document identification number sequence of all blank Forms DS-2019 in the possession of the sponsor on the date of the report.~~

(e) Certification. All annual reports must include the following certification: "I have reviewed this report of my organization's operation of a Department of State designated exchange visitor program and hereby certify that adequate staff and resources are devoted to the administration and oversight of this program and that internal controls adequate to ensure regulatory compliance are in place."

(1) For exchange visitor programs classified as "Government Programs," this certification will be signed by the RO.

(2) For exchange visitor programs classified as P-1 or P-2 "Academic Programs," this certification will be signed by the institution's Chief Financial Officer.

(3) For exchange visitor programs classified as P-3 and P-4 "Private Sector Programs," this certification will be signed by the organization's Chief Financial Officer. In addition to the Annual Report required above, all P-3 and P-4 "Private Sector" programs must file a program specific management audit (in a format approved by the Department of State).

(f) Program participation. A numerical count, by category, of all exchange visitors participating in the sponsor's program for the reporting year (active status).

~~(g) Redesignation. Sponsors may indicate their desire for redesignation, pursuant to §62.7, by marking the appropriate box on their annual report.~~

The DS-2019 usage report language is deleted, since equivalent information should now be in SEVIS. A new section (e) would require a certification that adequate staff and resources are devoted to the exchange program. For P-1 and P-2 programs, this certification must be signed by the institution's Chief Financial Officer. P-3 and P-4 "private sector programs" would have to include this certification as well as a "specific management audit" as part of the annual report.

62.15(f)

This requirement has been updated to refer to participants in Active SEVIS status, but does not indicate whether this number will be generated automatically by SEVIS as part of the annual report.

62.15(g)

This section is deleted, since program redesignation is handled in proposed section 62.7, and is based on a schedule other than the annual report schedule.

62.16

§ 62.16 *Employment.*

62.16(a)

(a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee for employment when such activities are part of the exchange visitor's program.

62.16(b)

(b) An exchange visitor who engages in unauthorized employment shall be deemed to be in violation of his or her program status and is subject to termination as a participant in an exchange visitor program.

62.16(c)

(c) The acceptance of employment by an accompanying spouse or ~~minor-child dependent~~ of an exchange visitor is governed by ~~Immigration and Naturalization Service~~ Department of Homeland Security regulations. An exchange visitor must report to his or her sponsor the Employment Authorization Document (EAD) number and the validation and expiration dates of the authorized period of employment for any accompanying spouse and each dependant. As required by § 62.10(d)(6), sponsors must report accompanying spouse and dependant EAD information in SEVIS.

The proposed rule would add a requirement for J-2 dependents who obtain work authorization to report their EAD number and validity dates to the program sponsor, who would then be required to update the dependents' records in SEVIS with that information. Also reference proposed section [62.10\(d\)\(6\)](#).

62.17

§ 62.17 *Fees and charges.*

62.17(a)

(a) *Remittances.* Fees prescribed within the framework of 31 U.S.C. 9701 must be submitted as directed by the Department and must be in the amount prescribed by law or regulation.

62.17(b)

(b) *Amounts of fees.* The following fees are prescribed for Fiscal Years 2008–2009 (October 1, 2007 -September 30, 2009):

62.17(b)(1)

(1) For filing an application for program designation and/or redesignation (Form DS–3036) - \$1,748

62.17(b)(2)

(2) For filing an application for extension beyond the maximum duration, change of category, reinstatement, reinstatement-update SEVIS status, ECFMG-sponsorship authorization, and permission to issue - \$246.