United States Information Agency

22 Cfr Part 514
[Rulemaking No. 101]

Exchange Visitor Program

Agency: United States Information Agency.

Action: Notice of final rulemaking.

Summary: By this notice the Agency is publishing final regulations governing its administration of the Exchange Visitor Program. The Agency has undertaken a thorough review of the Program, its enabling legislation, and past history. This review has, in turn, directed the Agency upon a course of regulatory and management practice reform. The complete revision to 22 Cfr part 514 set forth in detail below is being made in an effort to define more clearly the obligations, duties, and relationships of the Agency, sponsors, and exchange participants.

Effective date: With the exception of § 514.14 (Insurance), and § 514.15 (annual reports) part 514 shall take effect March 19, 1993. Sections 514.14 and 514.15 shall take effect on September 1, 1994.

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Supplementary Information: The Director of the United States Information Agency ("Agency") is authorized to facilitate and direct educational and cultural exchange activities in order to develop and promote mutual understanding between the people of the United States and other countries of the world. Now governed by the provisions of the Mutual Educational and Cultural Exchange Act of 1961 ("Fullbright-Hays Act"), educational and cultural exchange is the cornerstone of United States public diplomacy, an integral component of foreign policy.

First begun pursuant to the provisions of the United States Information and Educational Exchange Act of 1948 ("Smith-Mundt"), the Fulbright-Hays Act has, over the past forty years, exposed millions of foreign nationals to the United States, its people, cultures, skills, business techniques, educational institutions, and way of life. The Fulbright-Hays Act mandates reciprocal exchange and

Americans traveling abroad have, in similar fashion, developed an enhanced awareness of foreign people, their cultures and societies. Originally performed by the Department of State, oversight of exchange activities, occurring under the umbrella of the Exchange Visitor Program, has been the responsibility of the Agency since 1978.

The Fulbright-Hays Act prescribed categories of eligible exchange participants. The Act provides for the exchange of students, scholars, trainees, teachers, professors, researchers, specialists, leaders in a specialized field of knowledge or skill, or other person of similar description. In addition, the Act requires that exchanges participate in bona fide teaching, study, instruction, lecturing, observation, consultation, research, training or demonstration of special skill activities. Further, the Act authorizes non-immigrant aliens falling within the statutory parameters of the Act to enter the United States under the aegis of a J visa for the purpose of participation in an exchange visitor program. Necessarily, Agency determination of the appropriate usage of the J visa is an integral element of this rulemaking.

The Exchange Visitor Program is facilitated—indeed, largely conducted—by Agency-designated program sponsors who are responsible for the recruitment, placement, and supervision of exchange participants. Congress clearly intended that the private sector was to have a major role in educational and cultural exchange activities. Indeed, when Congress assigned the Agency its mission in 1978, it reemphasized, amongst other things, that the Agency was to "encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interests." 22 U.S.C. 1461-1 (1988).

Pursuant to this Congressional mandate, utilization of private sector expertise and resources has resulted in the designation of over 5,000 exchange visitor programs during the past forty years. Currently, in excess of twelve hundred program sponsors are conducting exchange activities. In 1990, these Agency-designated sponsors facilitate the entry into the United States of more than 180,000 Exchange Visitor Program participants. Though widely hailed as an innovative and successful foreign policy initiative, the Exchange Visitor Program is not without flaw. Debate concerning the parameters of program participation and activity has arisen in recent years. In response to this debate, the Agency has undertaken a thorough review of the Program, its enabling legislation, and past history.

This review has, in turn, directed the Agency upon a course of regulatory and management practice reform. The amendments to 22 Cfr part 514 set forth in detail below are proposed in an effort to define more clearly the obligations, duties, and relationships of the Agency, sponsors, and exchange participants.

Acting in response to Congressional request, the General Accounting Office ("GAO") investigated Agency oversight and administration of the Exchange Visitor Program and its attendant utilization of the J visa. In its report to Congress, dated February 5, 1990 and entitled "Inappropriate Uses of Educational and Cultural Exchange Visas," the GAO determined that certain Exchange Visitor Program activities appeared to be inconsistent with the statutory grant of authority and its underlying legislative intent. GAO summarized its findings, stating:

Most J-visa activities appear to conform to the intent of the 1961 Act. However, GAO believes that certain activities and programs in the trainee and the international visitor categories, including the summer student/travel work, international camp counselor, and au pair (child care provider) categories, are inconsistent with legislative intent. GAO identified instances of participants working as waiters, cooks, child care providers, amusement and leisure park workers, and summer camp counselors. Authorizing J visas for participants and activities that are not clearly for educational and cultural purposes as specified in the Act dilute the integrity of the J visa and obscures the distinction between the J visa and other visas granted for work purposes.

In turn, Agency responses to this criticism began with a thorough review of enabling legislation authorizing the Exchange Visitor Program and admission into the United States of foreign nationals on a J visa.

The Agency has sought and greatly benefited from the views and opinions of the exchange community. A prior proposed rulemaking, published November 25, 1991, was abandoned in light of substantial negative comment. An open door policy has been in place during this entire Rulemaking process and all interested parties have been afforded the opportunity to be heard.

The National Association for Foreign Student Affairs and the International Exchange Association have been instrumental in suggesting regulatory changes which will shape the scope and velocity of future exchanges. The American Immigration Lawyers Association also contributed significantly to the review and revision of these regulations. A total of 236
comments were received in response to the Proposed Rulemaking published October 9, 1982. The views and comments reflected in these comments as well as the testimony offered at three public hearings conducted over the past year are incorporated in this Final Rule. Given the diversity of interests represented under the umbrella of the Exchange Visitor Program, the Agency has often had to reconcile competing or conflicting interests. Accordingly, although all comments received were well reasoned, program and policy considerations have dictated the adoption of some suggestions but not others.

Subpart A: General Provisions

Exchange Participants and Activities

The Agency has determined that it may best prevent future confusion regarding participant eligibility by establishing eligibility criteria. To this end, the Agency adopts such criteria set forth at §514.4 as proposed. New categories of participation, those of "short-term scholar" and "government visitor" are introduced and participation as a "student" is more clearly defined. The category of "specialist" has been expanded and that of "international visitor" is restricted to Agency use. Further, the Agency has determined that camp counselor programs—subject to certain modifications provided for in these regulations—do in fact fall within the Agency's statutory authority to promote exchange. Seventeen comments regarding categories of participation were received, all generally advocating inclusion of summer work/travel programs or suggesting minor modifications to camp counselor or international visitor programs.

The Agency has determined that the academic exchange community could readily increase the velocity of academic related exchanges through the development of "short-term scholar" exchanges. A new category of participation, such exchanges will be limited to four months duration. In similar fashion, the Agency believes exchanges within the business community could be substantially increased through the use of the "specialist" category of participant. This category allows for experts in a field of specialized knowledge or skill to engage in observation, consultation, or demonstration of special skill for a period of time not to exceed one year. To correct confusion which periodically arises from the sponsorship of student participants, the Agency adopts criteria governing student status.

Given the bona fide requirement set forth in 8 U.S.C. 1101(a)(15)(J), the Agency believes that a student participant must pursue a full course of study. In light of comments received, the Agency concludes that academic institutions should be left to determine what constitutes a full course of study at their institution. Provisions are also made to allow for non-degree students and individuals pursuing English language training.

Also set forth in §514.4 as subparts of the "other persons of similar description" participant category are "International Visitor" and "Government Visitor." Originally intended only for Agency use, the International Visitor category has devolved to "catch-all" usage over the years. As proposed, reservation of this category only for Agency use will allow definitive and statistical illustration of the nature and scope of exchanges occurring under direct Agency sponsorship. Similar in nature to International Visitor, the proposed Government Visitor category will be utilized for exchanges directly sponsored by local, state, or federal government agencies. Many comments suggested that the international visitor category should also include participants sponsored by the private sector. Given the ability of sponsors to conduct exchanges similar to international visitor exchanges under other categories of participation the Agency elects to reserve this category to its exclusive use.

The GAO report discussed supra, concluded that camp counselor programs are inconsistent with the legislative intent of the Fulbright-Hays Act. The Agency, having reviewed this matter in great detail, is now of the opinion that camp counselor programs may be continued. This conclusion is based upon policy and legislative analysis and will require certain programmatic reforms.

International camp counselor is not a statutorily enumerated category of exchange participation. If, however, camp counselor exchange participants are students, teachers, bona fide youth workers, or persons with specialized skills in their home country they will fall squarely within the statutorily authorized category of "other person of similar description." As regards activities while in the United States, camp counselors are actively engaged in teaching, observation, and instruction activities, all of which are activities specifically authorized by the statute.

Agency designation of these programs is clearly consistent with the statutorily enumerated purpose and objective of the legislation. To avoid confusion as to the categorization of camp counselor program participants, a new category, set forth at §514.4 as a subpart of "other persons of similar description," is adopted.

Program Designations

Agency examination of its administration of the Exchange Visitor Program has resulted in a determination that certain internal program controls should be bolstered. In part, the Agency has determined that sponsor application and designation procedures should be strengthened and more clearly delineated. To this end, the Agency proposed and now adopts, pursuant to provisions set forth at §514.5 and §514.6, modification of existing application and designation procedures and the addition of a new requirement dictating periodic redesignation.

Recognizing that many exchange programs exhibit a life cycle of establishment, maturation, and demise the Agency adopts proposed regulations governing periodic redesignations. The Agency proposes to designate program sponsors for five years and require sponsors desiring to continue program operations to advise the Agency affirmatively of their intent to request for redesignation as set forth in §514.7, infra. Such periodic redesignations will allow the Agency to track program life cycles, efficiently cancel inactive programs, and most importantly, monitor the activity within and direction of designated exchange programs. Programs for which designation is not sought will be canceled through administrative action. Fifty-six comments regarding this new requirement all suggest that the requirement not be adopted or that notice to the Agency regarding a sponsor's desire for continuation of its designation should be accomplished through an appropriate check-off on the annual report. Having examined this suggestion the Agency modifies its proposed language to adopt this suggestion. The Agency contemplates a two-year phase-in of this requirement during which all existing redesignations will be reviewed and extended, if appropriate.

Program Administration

In addition to delineating sponsor and participant eligibility criteria, the Agency proposed that all exchange programs designated by the Agency meet certain eligibility requirements. As set forth at §514.8, the Agency has.
related to reciprocity is the requirement that exchange visitors be exposed to various activities designed to promote cross-cultural awareness. Sponsors will be required to offer a reasonable amount of cross-cultural activities, including sports, cultural, and social activities for the purpose of enhancing the participant's knowledge and understanding of American mores, customs, and ways of life. 

Agency scrutiny of existing regulations governing the Exchange Visitor Program has revealed a lack of specificity and clarity regarding sponsor obligations and program administration. Although the Agency is secure in its belief that sponsors act in the best interests of sponsored exchange participants, the existing regulations do little to ensure uniform program administration and oversight of exchange visitors. To correct this deficiency, the Agency proposed amendment to existing regulations. In an effort to provide some measure of uniformity in the conduct of exchange activities such amendments are hereby adopted.

Recognizing that exchange visitors are dependent upon the sponsors who facilitate their entry into the United States, the Agency will require that such sponsors demonstrate, to Agency satisfaction, their organizational and financial ability to fulfill their duties and obligations as exchange sponsors. Pursuant to regulation set forth at § 514.9, non-government sponsors must affirmatively establish both their ability to pay timely all financial obligations and that sufficient funds are readily available to fulfill all obligations and responsibilities attendant to exchange sponsorship.

The Agency is obligated to introduce this requirement due to evidence of financial instability among certain Agency-designated sponsors. As a matter of administrative convenience, the Agency deems it appropriate to consider public colleges and universities as government sponsors, for the purposes of this provision only, and thereby exempts them from compliance. In addition to furnishing evidence of fiscal integrity, sponsors must also comply with additional obligations pertaining to internal organizational operations.

The regulation set forth at § 514.9 also requires that sponsors adhere to Agency-promulgated regulations governing the Exchange Visitor Program. This regulation is advanced, in part, to ensure that officers, employees, and agents involved in exchange activities are aware of the Program's intent, and regulatory requirements. This regulation will require employees, officers, and agents responsible for program administration to be adequately trained and qualified to perform assigned duties relating to exchange activities. Underlying this requirement is an Agency concern that responsibility for both exchange visitors and program administration be vested in persons who have knowingly undertaken such responsibility.

The Agency also adopts, pursuant to regulations set forth at § 514.10, requirements governing the selection and orientation of exchange participants. The Agency will require that sponsors ensure that prospective exchange participants meet the eligibility criteria for program participation and that such program is suitable to the participant's background, needs, and experience. Upon selection for participation and prior to commencement of the program, sponsors will be required to provide the participant with information regarding the exchange program, travel, housing, and cost. The sponsor will inform all exchange visitors of the two-year home residency requirement which may apply to the exchange visitor due to government funding or area of study. Upon the exchange participant's arrival, or as soon as practical thereafter, the sponsor must provide sufficient orientation to acquaint the exchange visitor with United States customs and monitor the visitor's stay in the United States. This requirement is adopted in an effort to both facilitate the exchange visitor's adjustment to life in the United States and enhance the positive impression of the United States which is the underlying purpose of all exchange activity. Although the Agency has determined that orientation for accompanying dependents is highly desirable, a mandatory requirement that such orientation be conducted is not imposed. The Agency strongly encourages sponsors to provide dependent orientation.

Section 514.14 Insurance

The Agency has reviewed the health and accident insurance coverage afforded Program participants. The need for such coverage is well-recognized. Given the escalating costs of U.S. health care, the current levels of coverage, in place since 1983, are now woefully inadequate. As set forth in § 514.14, the Agency proposed to increase the level of coverage to $50,000 per accident or illness. The Agency also proposed that exchange visitors obtain coverage for repatriation of remains in the amount of $7,500 and coverage for medical
evacuation to their home country in the amount of $10,000. A waiting period for pre-existing conditions, reasonable as determined by industry standards, and a deductible not in excess of $500 per accident or illness will be permitted. Provision is made for co-insurance. Policies may not exclude from coverage perils or dangers inherent to the exchange activity. For example, an insurance policy secured to cover flight training participants may not exclude injury arising from operation of small aircraft. In an effort to ensure the quality of the provided coverage, the Agency proposed that only insurance corporations having certain ratings by recognized insurance company rating services would be acceptable to underwrite the insurance for exchange visitors.

This regulation, as adopted, provides for self-insurance by federal, state or local governments, state colleges and universities, and public community colleges. A non-governmental sponsor may elect to self-insure or to accept full financial responsibility for the above requirements, but could do so only with the Agency’s permission.

Current regulations do not require that an accompanying spouse or dependent of an exchange visitor be covered by insurance. These regulations cure this programmatic flaw by requiring accompanying dependants entering the United States on a J visa to be covered under an insurance policy. An exchange visitor’s failure to secure insurance coverage for his or her self and J-2 accompanying dependants would obligate their program termination. Sponsors would also be prepared to provide exchange visitors with information on the availability of such coverage.

The proposed insurance regulation generated 144 comment letters, each of which has been carefully reviewed. In addition, during the course of the regulatory reform, the Agency held a number of meetings and telephone conferences with the exchange community and representatives of the insurance industry specifically to discuss the proposal.

At none of these meetings and in none of the comment letters was there any disagreement about the need for insurance on exchange visitors or that the levels of coverage required under current regulations were inadequate. However, there has been considerable discussion about the practical application of the proposed regulation and about the role of sponsors in making sure that the requirements are met.

At the outset, it is noted that a number of comment letters reflect a misunderstanding on the part of sponsors about their obligations under the insurance regulation. Sponsors are not themselves required to provide or pay for the required coverages on exchange visitors or on their accompanying spouse or dependents, although the sponsor may choose to do so. Those obligations reside in the exchange visitor. The sponsor’s obligations under the insurance provisions set forth in §514.14 are limited to informing exchange visitors that they and their accompanying spouse and dependents are required to be covered by insurance and, in what the Agency expects will be isolated instances where the exchange visitor willfully fails to remain in compliance with the insurance requirements, terminate the participation of the exchange visitor in the sponsor’s program.

A number of commenters expressed particular concern about the latter obligation on the grounds that it converts what has traditionally been a counseling and advising function into a police or informing function, which would seriously erode the exchange visitor’s trust and confidence in the sponsor or responsible officer. Nevertheless, the Agency believes that if the insurance requirements are not coupled with an enforcement provision, they may well be ignored by the exchange visitor.

However, in order to lessen this perceived burden on sponsors, the Agency has added the word “willfully” to §514.14(i), so that sponsors are required to sanction only the most egregious cases where the exchange visitor willfully fails to remain in compliance with the insurance requirements. In cases where through mere inadvertence or neglect an exchange visitor fails to obtain the required coverage or allows the coverage to lapse, the sponsor can counsel and work with the exchange visitor to bring him or her into compliance. Early counseling by the sponsor, which impresses upon the exchange visitor the importance and necessity of having the required coverage, will help avoid problems. The Agency is fully cognizant that on occasion there will be instances where the exchange visitor or an accompanying spouse or dependent fails to obtain or maintain the required coverages. For example, the Agency is aware that there are instances where the sponsor does not even know that the exchange visitor is accompanied by a spouse or dependents because the spouse or dependents came to the U.S. on some visa other than the J visa or because the consular official, unbeknownst to the sponsor, issued a separate IAP-66 and visa for such spouse or dependents. In such instances, the sponsor clearly has not failed to meet its obligations. It need take action only when it becomes aware that the exchange visitor is willfully violating the regulation.

A number of comments expressed concern over the requirement that there must be insurance in effect which covers the exchange visitor “during the period of time that an exchange visitor participates in the sponsor’s exchange visitor program” (§514.14(a)). The Agency recognizes that certain practical difficulties may render that provision. For example, an exchange visitor college or university student may come to the U.S. with no insurance coverage and will only be able to participate in the school’s insurance plan when he or she enrolls and pays the required premium. Similarly, when the exchange visitor completes his or her course of studies, he or she may choose to leave the school but remain in the U.S. for a period of time to travel and sightsee. For purposes of the insurance regulation, the Agency considers the exchange visitor to be “participating” in the sponsor’s exchange visitor program only during that period of time between actual enrollment and that point when the student departs the school upon completion of his or her studies. Similarly, in the case of those who come to the U.S. on Agency-designated training programs, the Agency considers the trainee to be “participating” in the sponsor’s training program only during that period of time between when the trainee actually begins training and when the training is completed. In other words, the insurance regulation does not require “portal-to-portal” coverage, even though such coverage is highly desirable.

Several commenters expressed reservations about the Agency’s reliance on independent insurance company rating services to ensure the quality of the underwriters providing the required coverage. However, because of staff limitations and, more importantly, because of the Agency’s lack of expertise in this complex area, the Agency is not in a position to independently evaluate the claims-paying ability of insurance carriers and must, of necessity, rely on established and recognized rating services to perform such evaluations.

A number of commenters objected to the requirements for repatriation and medical evacuation insurance coverage
on exchange visitors, both on the
grounds that such coverages are not
readily available and/or on the grounds
that the coverage limits are too high.
However, the Agency has conferred
with insurance industry officials and
has concluded that such coverage is
available and that the coverage limits
are reasonable. In the event that, based
on its past loss experience in this area,
the sponsor concludes that the cost of
such coverage outweighs the risk of loss,
it may self-insure or assume financial
responsibility for such coverage.

The Agency is also cognizant of the
fact that many sponsors, particularly
large educational institutions and
corporate sponsors who choose to
provide exchange coverage to program
participants, require considerable lead
time to solicit proposals for and
implement insurance plans which meet
the requirements of this section. For that
reason, the Agency is postponing the
effective date of the insurance
provisions until September 1, 1994.

Finally, the Agency recognizes that,
on occasion, there will be instances
where the insurance coverage obtained
by or made available to exchange
visitors will differ from the required
coverage in minute detail. For example,
there may be a situation where the
deductible in an insurance policy
exceeds the $500 limit, but the sickness
and accident coverage far exceeds
$50,000 and meets all other Agency
requirements. In such instances, the
Agency is available to consult with the
sponsor in order to reach a reasonable
resolution of the issues.

Notification, Annual Reporting, and
Control of Form IAP-66

Twenty-one comments were received
regarding Agency notification
requirements set forth at § 514.12. These
requirements are adopted with minor
modification reflecting comments
received. Such requirements include
notification to the Agency of material
changes in a sponsor's organizational
structure which affects the citizenship
requirement set forth in § 514.2, and
overall ownership and control. The
Agency is obligated to introduce this
requirement as many designated
sponsoring organizations are small
entities comprised of key personnel.
Upon notification of a substantial
change in ownership or control, the
Agency will ascertain whether
designation should continue based upon
the experience and expertise of the new
management. It must be noted that
Agency designations are not
transferable.

Efficient Agency oversight and
administration also dictates that

sponsors apprise the Agency of any
changes in responsible officers, address,
or telephone number. In similar fashion,
loss of license or accreditation,
change in financial circumstances or the
voluntary termination of the exchange
visitor program must be reported. The
Agency has also determined that
notification concerning a participant's
early completion or withdrawal from
the sponsor's exchange program is necessary. Upon receipt of such
notification the Agency will deem the
sponsor's obligations to an exchange
visitor to have ended. At the suggestion
of the exchange community this
requirement has been modified to
require only the reporting of program
termination or early withdrawal.

The Agency has determined that a
substantial correction must be made to
the current practice surrounding the
care and custody of the Form IAP-66.
Such forms are controlled U.S.
Government documents and have been
found to have a substantial black market
value. The Agency has also discovered
unauthorized utilization of the forms by
program sponsors to facilitate the entry
of foreign nationals for the purpose of
participation in non-designated
exchange activities. The Agency
proposed to correct this abuse by
institution of a strict accounting of all
forms disbursed to sponsors. Twenty
comments regarding these requirements
were received with most suggesting that
the Form IAP-66 should be treated in
similar fashion to INS Form I-20. At
this point in time the Form IAP-66
remains a form that sponsors must
complete and the Agency is obligated to adopt this
requirement as proposed. To this end, the
Agency will require, pursuant to the
provisions of § 514.12 and § 514.13, that
sponsors record and destroy damaged
forms, track and record forms issued,
and maintain all forms on hand in a
secure fashion. An accounting for all
forms will be made, in part, pursuant to an
expanded annual reporting
requirement.

Considerable debate has surrounded
the Agency's proposal regarding annual
reporting requirements. This debate is
best evidenced by the Agency's receipt
of ninety-three comments regarding the
proposed annual reporting
requirements. Further complicating the
proposa1 of an annual reporting
requirement is the misconception,
particularly within the academic
community, that annual reporting is a
new requirement. Annual reporting of
program activity and participant
category is as old as the Exchange
Visitor Program itself. In point of fact,
the proposed report form is the same
form that sponsors of long-designated

programs routinely submitted to the
Agency for years. Part of this confusion
over the form and the reporting
requirement may be traced to an oral
statement allegedly made by an Agency
official to the effect that annual reports
need not be submitted. Without arguing
the bona fide reliance a sponsor may
have placed upon such an oral directive,
it should be well noticed that the
regulatory requirement for submission
of an annual report remained unchanged.

The Exchange Visitor Program is an
anomaly in the U.S. immigration
scheme and provides extraordinary
latitude in the selection of exchange
participants. As a program and an
extension of U.S. foreign policy a degree
of accountability is required. The
burden of submitting an annual report
which reflects a sponsor's activity for a
year and which ensures an annual
reconciliation of their usage of Forms
IAP-66 is viewed by the Agency as a de
minimis imposition upon designated
sponsors. Although most if not all
commenters agreed that an annual
report regarding program activity was
reasonable, many questioned the
Agency's need to have the numerical
counts of categorical participants. This
objection was uniformly made by large
academic institutions at which
decentralized participant selection and
responsibility for program participants
is the rule and not the exception. The
Agency has reviewed this matter at
length and has determined that it cannot
abandon the annual reporting
requirement in order to accommodate
the wishes of some twenty academic
institutions.

Allegations that the annual report
imposes an undue paperwork burden
were also common. In response, the
Agency points out that the form
attached at appendix D has been in use
for thirty years and approved by OMB.
Further, one well informed commenter,
a member of the NAFSA Government
Relations Advisory Committee,
submitted a sample annual report which
had been prepared in thirty minutes.
This sample was generally acceptable to
the Agency and was lacking only in its
listing of categorical participants. In this
sample numerical counts of
categorical participants were estimated rather than
actual.

Although the Agency is at a loss to
understand why a sponsor cannot
currently account for the exact number of
participants in its exchange visitor
program, a review of the comments
received indicates that such an account
poses a problem for some sponsors.

Given this problem, the annual report
requirement should be phased-in to
allow for any required record keeping modifications. Accordingly, the Agency adopts the annual reporting requirement as proposed but delays implementation of the numerical count of categorical participants until the reporting year commencing with academic year 1995. All sponsors will be required to begin submission of annual reports reflecting program activities upon promulgation of this Rule and as directed by the Agency. Those sponsors that do not know the number of participants in their programs should report this information. Sponsors who do not know the number of participants in their program will be expected to begin providing this information within two years.

Subpart B: Specific Program Provisions

Section 514.20 Professors and Research Scholars

Although professor, researcher, and scholar exchanges are the very heart of the Exchange Visitor Program, regulations which specifically govern these exchanges have never been promulgated. In an effort toward regulatory consistency and program integrity, the Agency herein sets forth regulations which specifically provide guidance regarding such exchanges.

The term "scholar," although set forth as a category of exchange in the Fulbright-Hays Act, has never before been defined in the regulations. At issue is how to view the concept of "professor or research scholar." The Agency is correcting the discrepancy by introducing the category of "short-term scholar." The Agency received 61 comments on the proposed professor and research scholar regulations. The comments were thoroughly reviewed and subsequently a number of changes in the proposed regulations were made. The comments on the professor and research scholar regulations are mainly focused on the location of the exchange, type of positions permitted, occasional lectures and short-term consultations, duration of stay, and extensions.

In the proposed regulations, professors and research scholars are allowed to participate in their exchange programs at research institutions, museums, libraries, post-secondary accredited institutions, or similar types of institutions. Comments were made that research scholars should be allowed to conduct research at corporate research centers. Upon deliberation, the Agency decided to explicitly list corporate research facilities as a location permitted in §514.20.

In deciding whether to facilitate the exchange of a professor or research scholar, the sponsor shall consider the underlying purpose for which the individual is visiting the United States. It is appropriate for a professor or research scholar to come to the United States as an exchange visitor only when the underlying purpose of his or her entry is to stimulate international collaborative teaching and research efforts or to promote interchange between research and educational institutions in the United States and other countries. To this end, the Agency requires that appointments of professors and research scholars be temporary, even if the position itself is permanent. In addition, the individual shall not be a candidate for a tenure-track position. Recognizing that the positions of professor and research scholar are intertwined, the Agency permits professors to freely conduct research and research scholars to teach or lecture, unless disallowed by the sponsor. The definition of professor and research scholar set forth in these regulations, rather than the position description utilized by the individual educational or research institution, is to be used by the sponsor in determining the category of exchange participation.

Prior to issuance of the Form IAP-66, the responsible officer must review the parameters of the individual exchange to assess whether research or lecturing will comprise the participant's primary activity. If the exchange participant will primarily be conducting research, he or she must be categorized as a research scholar on the Form IAP-66. If the exchange participant will primarily lecture, then he or she must be categorized as a professor.

The final regulations allow sponsors to authorize a change of category from professor to research scholar, or vice versa, when the principal activities of the participant's stay are consistent with the Program purpose for which the individual was granted a position as a research scholar. The Agency has adopted the standard of review for extensions for professors and research scholars from "unusual or exceptional" to "for good cause." These changes were made to respond to the needs of the universities and research institutions, especially in regards to international research projects and a variety of collaborative teaching and research efforts.
of the third year. Under the final regulations, the Agency permits requests for extensions to be filed any time, but recommends that they be filed not later than 45 days before the program's expiration date.

The Agency will entertain sponsors' requests to extend the permitted period of participation for a group of research scholars engaged in specific fields of endeavor on a blanket petition. The Agency believes that such blanket approvals will provide both desired flexibility and enhanced administrative efficiency.

Several comments suggest that the Agency clarify the status of professors and research scholars when extensions for exchange visitors are requested to the Agency. Some of the comments recommend specific language. First, the comments recommend that the regulations state that exchange visitors who apply for an extension pursuant to § 514.20(j)(2) are considered to be in valid program status during pendency of the application. The Agency adopts this language in the final regulations.

Second, the comments recommend that the regulations state that an exchange visitor who applies for an extension pursuant to § 514.20(j)(2), and who subsequently receives agency notice that the request has been denied, is considered to be maintaining lawful program status for an additional period of 30 days from the date of such notice, during which time the visitor is expected to depart the country, or for a period of 30 days from the expiration of the visitor's Form IAP-66, whichever is later. The Agency adopts such language with only minor modification to enhance clarity.

Section 514.21 Short-term Scholars

The Agency received 12 comments on the proposed short-term scholar regulations. The comments were thoroughly reviewed and many of them supported the addition of this category to the regulations.

The Agency created the category of "short-term scholar," which is defined as a professor, research scholar, specialist, or a 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 institutions, or similar types of institutions. Educators and scientists, research fellows, writers, museum administrators, librarians, and similar persons of recognized expertise are examples of participants appropriate for this category.

The goal of short-term scholar exchanges is to increase the velocity of the interchange of knowledge and skills and collaborative research efforts between foreign and American scholars. This may be accomplished by providing foreign scholars the opportunity to share ideas with their American colleagues, participate in educational and professional programs, confer on common problems and projects, and thereby promote improved professional relationships and communications.

Because these exchanges are of limited duration and the participants are often senior in their field, the Agency has determined that it will not be necessary for sponsors to provide orientation or cross-cultural activities for short-term scholars. However, the Agency does encourage sponsors to provide such activities to short-term scholars to the extent appropriate.

The final regulations exempt short-term scholars from the minimum duration of participation as set forth at § 514.8(b), but limit the maximum duration of participation to four months. As this category is intended only as a vehicle for short-term collaboration and interchange, these participants will not be eligible for a program extension.

The number of the comments suggest that the Agency clarify whether short-term visitors would be able to change categories. In the final regulations, a short-term scholar may be considered by the Agency for a change of category when the requirements set forth in § 514.41 are satisfied. Any change in category must be clearly consistent with § 514.41.

Section 514.22 Training

The Agency received 79 comments on the proposed training regulations. The comments principally addressed the following subsections: § 514.22(c)(2) (Categories of Specialty and Non-Specialty occupations), § 514.22(e) (Use of Third Parties), § 514.22(g) (The Training Plan), § 514.22(m) (Evaluation), and appendix E to part 514 (List of Unskilled Occupations). All comments have been carefully reviewed and the Agency has made a number of revisions to the proposed regulations, as will be discussed below.

Background

Following the passage of the Smith-Mundt Act in 1948, the Department of State, the Agency's predecessor in implementing exchange programs, promulgated regulations governing educational and cultural exchanges. Among other things, these regulations recited various categories of aliens allowed to participate in exchange visitor programs pursuant to the statutory language of the Act. Among those categories were "trainee," defined as an alien seeking to enter the United States temporarily in order to participate in an exchange visitor program "for the purpose of obtaining practical training in public administration, industry, medicine, agriculture, or some other specialized field of knowledge or skill * * *." 22 CFR part 68 (1949).

In 1961, Congress enacted the Fulbright-Hays Act, again directing the Agency to administer and address these categories of exchange participation. Although an integral part of Agency-administered exchanges, it was not until 1983 that separate regulations governing training activities utilizing the J-visa were promulgated. 22 CFR 514.13(c) (1983). These regulations have not been amended or revised since first promulgated.

In response to the General Accounting Office (GAO) investigation noted above, the Agency has reviewed the legislation and legislative history underlying the Exchange Visitor Program and existing regulations to determine whether such regulations comport with the statute governing this program. As discussed below, the Agency is amending existing regulations in such a manner that the criticisms raised by the GAO are addressed and distinctions between training and work are obvious and clearly drawn.

In Rulemaking 100 of the Agency proposed regulations which addressed the criticisms of the GAO and attempted to distinguish clearly between training and work that is not training. Thus, the Agency proposed that all training conducted under the aegis of the Acts be clearly defined and structured, and on a level appropriate to the trainee's background and experience.

The GAO Report

The controversy over the legitimacy of certain activities of foreign nationals in the United States on exchange visitor visas sparked Congressional concern as to the propriety of certain educational and cultural exchange programs administered by the Agency. A GAO investigation and report followed. The report by GAO, entitled "Inappropriate Uses of Educational and Cultural Exchange Visas," and dated February 16, 1990, (GAO Report) concluded that:

"A number of J-visa activities in the practical training and international visitor
categories, including summer student travel/work, camp counselor, and au pair activities—some of which have been ongoing for years—do not conform to the original legislative intent concerning educational and cultural exchanges. The GAO Report at 23 noted that the existing training sanctioned by the Agency "did not have the same status as the categories mentioned in the statutes and would not generally be considered to have the same educational and cultural value." Id. at 16.

The Agency is of the opinion that the vast preponderance of the exchange visitor training programs are conducted well within the legislative authorities created by the Act. However, the GAO found that certain training programs inappropriately "consisted primarily of employment in commercial enterprises with no cultural or educational emphasis placed on the participants' activities. This training involved participants in such capacities as waiters, cooks, hotel workers, and automobile body repairers." Id. at 3. It is noted that the GAO Report stated only that "some" training programs consisted primarily of employment in commercial enterprises with no cultural or educational emphasis placed on the participants' activities. This training involved participants in such capacities as waiters, cooks, hotel workers, and automobile body repairers. Id. at 3.

The Agency recognizes that at the time the applicant is applying for designation it may not have identified individual trainees who are going to participate in its program. If all instances, the applicant need only submit a generalized, hypothetical training plan and describes three types of training plans which an applicant may utilize in order to comply with the regulations. The Agency recognizes that at the time the applicant is applying for designation it may not have identified individual trainees who are going to participate in its program. If all instances, the applicant need only submit a generalized, hypothetical training plan and describes three types of training plans which an applicant may utilize in order to comply with the regulations.

The Agency will presume that such training, which the Department of Labor has noted, was previously undertaken in the past.

The Agency has determined that non-specialty occupational programs may require closer monitoring after designation than was previously undertaken in the past. The Agency has concluded that the potential for inappropriate usage of the J visa is most pronounced in those non-specialty occupational areas which are generally considered unskilled in nature. For example, the Agency would not approve an application for designation of a program to train persons in clerical skills in nurses' aides or orderly skills.

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denying designations of proposed training programs. Should the Agency determine in the future that the listing of unskilled occupations requires additions or deletions, it will do so. Applications for designation of training programs in occupations listed in Appendix F will not be approved.

Upon review of the comments, the Agency has made certain revisions to the listing of occupations in which it will designate training programs. (§ 514.22(c)(2).) It is believed that the revised listing covers all conceivable types of training.

Justification for the distinction between "specialty occupation" and "non-specialty occupation" may be found in both the original regulations governing the Exchange Visitor Program and in the legislative history of the Acts. In 1949, the Department of State permitted "trainee" participants pursuing training in "public administration, industry, medicine, agriculture, or some other specialized field of knowledge or skill." 22 CFR part 68 (1949) (emphasis added). The legislative history of the Smith-Mundt Act refers to the training of meteorologists, agricultural research by the operation of collaborative experiments and research stations, hydroelectric experts, malaria experts, and experts in the fields of economics, business administration, agricultural design and construction, communications, and distribution of electric power. See United States Information and Educational Exchange Act of 1948: Hearings on H.R. 3342 Before a Special Subcomm. of the House Comm. on Foreign Affairs, 80th Cong., 1st Sess. 148-50 (1947).

While most of the early exchange visitor programs fell in specialized areas such as those noted above, the legislative history of the 1961 Fulbright-Hays Act strongly suggests that Congress intended the program to be broadly construed and highly flexible and adaptable to changing needs and conditions. In recognition that non-specialty occupational training programs can be an important part of our foreign policy, the Agency will not exclude them from the Exchange Visitor Program. Since the passage of the Fulbright-Hays Act, the world has seen a major expansion in non-specialty occupational training and such programs have become an important part of our foreign policy, which the Agency intends to continue. However, for the reasons set forth above, the Agency will subject non-specialty occupational training to higher scrutiny in order to ensure that such training is bona fide.

As noted above, while the Agency will not require that a detailed training plan be submitted for each trainee, we anticipate that sponsors engaged in bona fide training programs will, in the ordinary course of business, prepare such plans and retain them in their files. The Agency may from time to time request an opportunity to inspect these training plans in order to verify sponsor compliance with Agency regulations.

Sponsor Supervision

The sponsor of the program must be directly responsible for all aspects of the trainee's activities while the trainee is in the United States, including the selection, orientation, training, supervision, and evaluation of the trainee. The purpose of this regulation is to assure that responsibility for the trainee resides in one place. It has always been the policy of the Exchange Visitor Program that sponsors be directly responsible for those aspects of the Program, yet analysis of some programs reveals that this policy has not always been observed. The final regulations codify and strengthen this existing long-standing policy.

However, in order to carry out the actual training set forth in a sponsor's approved training plan, the Agency has determined that utilization of a third party to conduct one or more aspects of the training is appropriate. If the sponsor elects to delegate its responsibility for providing all or parts of the training to a third party, the sponsor is nevertheless accountable for ensuring that the third party complies with these regulations. A third party's violation of these regulations shall be imputed to the sponsor; therefore, the sponsor's obligation to monitor, control, and oversee the third party is absolute. Simply put, a third party may act for or in place of the sponsor; however, the accountability of the sponsor shall be non-delegable.

The Agency will no longer approve an organization as a sponsor of a training program where the organization or its agent abdicates its responsibility to train and supervise the trainee. The regulations, as noted, will require that the sponsor retain full responsibility for the conduct of the program. Simply placing a trainee in a third-party training program will not be allowed in the future if the sponsor abdicates accountability for the training and well-being of the trainee.

When a third party is utilized by the sponsor, the Agency will require that there be a written agreement between the sponsor and the third party. The agreement need not be a multi-page, complex legal document. However, the agreement must recite the third party's obligation to act in accordance with all Agency promulgated regulations applicable to the sponsor.

Evaluations

The proposed regulations include a requirement that trainees be evaluated semi-annually and upon conclusion of the training program (§ 514.22(m)). For training programs of less than nine months, the proposed regulations require an evaluation at mid-point and upon conclusion of the training program. In response to a number of comments received on this section, the Agency has amended the regulation as follows: Trainees will be evaluated at mid-point in their training and when they conclude the program. For training programs of less than three months, the trainees need be evaluated only upon conclusion of the training program.

Flight Training Programs

Included amongst the exchange visitor programs currently designated by the Agency are flight training programs. The Agency considers flight training to be in an important yet sensitive occupational area which requires that particular attention be given to quality assurance. Additionally, flight training programs require more financial resources than many other types of training programs.

Over the past two years, five of the thirty Agency-designated flight training programs have met with financial failure and recently one flight training program was suspended by the Agency for serious violations of Agency regulations. These incidents suggest that the Agency must monitor more closely the flight training programs in order to ensure that program participants are adequately protected.

The Agency has engaged in considerable dialogue with representatives of flight training programs during the course of the Agency's regulatory reform effort. The Agency has conveyed to the sponsors its concerns about the financial stability of a number of sponsors and its concerns about the "work vs. training" issue involved in flight training programs. Similarly, the flight training sponsors and those seeking to become designated flight training sponsors have expressed their concern over the eighteen month maximum duration, arguing that flight trainees require more time to complete their training.

The Agency believes that a longer stay, up to a maximum of twenty-four months, is justified in the case of flight training because of the strict training requirements of the international
The Agency is hopeful that its concerns about the "work vs. training" issue will be met by the flight training programs by their adherence to the regulations concerning the training plan and use of third parties.

Flight training sponsors have also argued that participants in flight training programs should more properly be treated by the Agency as "students" rather than as "trainees" because typically flight training programs are more like schools than training programs that they follow fixed curricula, have classroom instruction, and, at least in some cases, are accredited by nationally recognized accrediting agencies. It was further argued that placing flight training program participants in the student, rather than the trainee category, would also entitle the flight student to a total of eighteen months of training at the conclusion of the classroom portion of the program, rather than the maximum of eighteen months period of participation permitted under the training regulations.

The Agency has considered those arguments and has concluded that the flight training participants more appropriately fit under the training category than the student category. Moreover, the stated goals of the flight training program participants are better met under the trainee category than under the student category. For example, §514.23 ("College and University Students") requires that the student be studying at a degree-granting post-secondary educational institution. Most flight training schools do not grant degrees.

Therefore, in order to meet the Agency's concerns about quality assurance and financial stability of flight training programs, while at the same time allowing flight trainees to gain more training time in the U.S., the Agency is making final the following regulations:

1. All flight training programs must be accredited by a nationally recognized accrediting authority. The Agency will consider only the applications of those programs which have already been accredited as set forth in the regulation, or which have formally commenced the accreditation process. The Agency is aware that accreditation may take as long as one year to be completed. The Agency will, therefore, accept applications for designation from flight schools which have commenced the accreditation process, but will only conditionally designate them for up to twelve months. Similarly, currently-designated flight training programs will be conditionally redesignated for up to twelve months, but only if they have commenced the accreditation process.

2. With respect to duration of participation, flight trainees are to be granted an additional six months of training time beyond the normal eighteen-month maximum duration of participation.

The Agency believes that this proposal is a reasonable accommodation to the need of the Agency and the needs of the flight training industry. Recognizing that there are both time and cost considerations in the accreditation process, the Agency is willing to extend the training time allowed to flight trainees to balance the accreditation requirement and in recognition of the special circumstances surrounding flight training.

The Duration of Participation

The Agency had considered limiting training programs to twelve months. Upon consultation with a number of current sponsors, the Agency decided to keep the duration of training programs to a maximum of eighteen months, as is presently provided for in the regulations. The primary purposes of training under the Exchange Visitor Program are to expose the visitor to uniquely American techniques, methodology, and philosophy in the visitor's field of endeavor and to provide an opportunity for open interchange of ideas between the visitors and Americans. The law envisions that exchange visitors will return to their home country to share with their compatriots their experiences in the United States, including the fruits of their training. While many of the exchange visitor training programs funded by the United States Government are for less than eighteen months in duration, the Agency concludes that many private sector programs may require eighteen months to maximize the benefits to the trainee.

Section 514.23 College and University Students

The Agency received 209 comments on the proposed college and university student regulations. The comments were thoroughly reviewed and a number of changes in the proposed regulations were made. They focused mainly on the academic training, student employment, non-degree programs, and duration of program.
definition of a prescribed course of study as set forth in the regulations.

Exchange visitor students are required to take a full course of study at a post-secondary accredited educational institution, unless they satisfy one or more of the exemptions as set forth in § 514.23(f). Full course of study for a college or university student is defined by the post-secondary accredited educational institution where the student is registered. Comments on this provision were favorable.

Numerous comments recommend a variety of changes to the exemptions of the full course of study requirement. Several comments suggest changes in the exemptions dealing with vacation periods, medical problems, academic difficulties and employment pursuant to scholarship, fellowship or assistantship and graduation. As a result of the Agency’s review, the exemptions were significantly modified.

The Agency strongly supports academic training for college and university students and adopts liberal regulations governing the pursuit of such opportunities. Such training may include internships, practicums, and cooperative educational programs. It may occur during the exchange visitor’s studies, after the completion of studies, or a combination of both when the requirements set forth in § 514.23(f) are satisfied.

Academic training must be an integral or critical part of the exchange visitor’s academic program. A number of comments expressed concern over the use of the word “integral.” The Agency believes that it is important to continue to require that the training is integral or critical to the exchange visitor’s academic program. The use of the terms “integral” and “critical” in this provision does not require that the training be part of a co-op program or for credit by the educational institution. The educational institution will have the discretion to determine what types of training are integral or critical to the student’s exchange program.

The Agency proposes that academic training be allowed for exchange visitor students when the exchange visitor:

1. Is primarily in the United States to study rather than engage in academic training;
2. Is participating in academic training that is directly related to his or her major field of study;
3. Is in good academic standing with the post-secondary accredited educational institution;
4. Will adhere to the period of time permitted for academic training;
5. Receives approval in advance and in writing by the responsible officer for the duration and type of training; and
6. Satisfies the other requirements set forth in these regulations.

A significant number of comments on academic training recommend that post-doctoral students be allowed an additional 18 months of such training. The rationale for the added time is that these students need up to 36 months to complete their post-doctoral research. Upon review, the Agency concurs. The final regulations provide for up to a total of 36 months for post-doctoral academic training, if the other requirements of § 514.23(f) are satisfied.

When students do not receive wages or remuneration when they participate in academic training during their studies, the requirements set forth in § 514.23(f) are not applicable. In this situation, the student needs only to obtain approval for such training by the academic dean or advisor and the responsible officer.

The Agency is desirous that students complete their studies in a timely manner. At the same time, the Agency recognizes the benefits of exchange visitor students working while studying. Numerous comments suggest that exchange visitors be allowed to work on-campus up to 20 hours per week. Upon full review of these comments, the Agency adopts these suggestions.

Accordingly, the final regulations allow exchange visitor students to engage in part-time employment when it is approved by the responsible officer and is (1) pursuant to a scholarship, fellowship, or assistantship, (2) occurs on-campus, or (3) occurs off-campus when it is necessary because of serious, urgent, and unforeseen economic circumstances which have arisen since acquiring exchange visitor status. The regulations require that the exchange visitor student be in good academic standing and complies with the full course of study requirement. Exchange visitor students shall be permitted to be employed no more than 20 hours per week, except during official school breaks and annual vacations.

Section 514.24 Teachers

The Agency received no comments regarding the proposed regulations governing teachers exchanges. Accordingly, the proposed regulations are adopted without further modification.

Section 514.25 Secondary Students

Secondary school student exchange programs have been a part of United States public diplomacy efforts since 1949. Expanding from a small base of non-profit organizations dedicated to student exchange, the Agency currently designates sixty-two organizations to conduct such exchanges. Secondary student programs vary in size for 50 to 4,000 participants. In 1990, Agency-designated sponsors facilitated the entry of 24,552 secondary school students, accounting for approximately fifteen percent of all exchanges conducted under the aegis of the Exchange Visitor Program. Although generally viewed as a highly successful category of exchange activity, some secondary school student exchanges encounter problems which are best addressed through regulation.

The importance of these exchanges is best evidenced by the Agency’s receipt of 59 comments on the proposed regulations. Such comments suggested that secondary school student exchanges should be permitted when the placement is at an accredited U.S. boarding school. The Agency has reviewed this matter and agrees that such placements should be permitted and has modified the regulatory language set forth at § 514.25(a) accordingly.

Program Administration

Mindful of the unique program considerations inherent to secondary school student exchanges, the Agency seeks to delineate clearly the obligations and responsibilities program sponsors must meet in administering such exchanges. Student participants are placed in a vulnerable position, far from home at a tender age. Due to this position, students are dependent upon program sponsors whose integrity, expertise, and professionalism must be above reproach.

Apparent to all observers is the fiduciary duty a sponsor owes to a student exchange participant. Such duty necessarily requires the sponsor to undertake responsibility for all aspects of the student participant’s stay in the United States from the selection of a suitable host family and enrollment in a secondary school through on-going monitoring of the exchange and the student’s return to the home country. To meet this duty satisfactorily the Agency concludes that an adequately trained and supervised staff, including agents or volunteers acting on the sponsor’s behalf, is of paramount importance to secondary school exchange programs. The Agency therefore directs, pursuant to the provisions of § 514.25(d) that sponsors properly train and supervise all staff members and volunteers acting on their behalf.

Working with adequately trained and supervised staff and volunteers, the Agency proposes that all sponsors...
maintain a monthly schedule of personal contact with the student and host family. The Agency contemplates that this degree of contact will provide adequate assurance that the student is successfully adopting to his or her new home and school environment. This monthly schedule of contact is a minimum. Sponsors will be expected to increase the level of contact with the student, should any problems occur when adjustment problems do dictate. The Agency had proposed that sponsors also maintain monthly contact with the school at which the participant was placed. Upon review of comments received, the Agency is deleting this requirement on the basis that it appears excessive and unneeded.

To ensure that all students are properly supervised, the Agency adopts a new requirement that program sponsors arrange no host family placement outside a 150 mile radius of the home of an organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters. A geographical limitation is proposed to enhance the sponsor's ability to maintain the proposed level of contact. This geographical limitation is a maximum. If staff members or volunteers are unavailable in a given geographic location, the sponsor must necessarily refrain from placing a student in such location.

Student Selection, Enrollment, and Orientation

8 U.S.C. 1101(a)(15)(J) provides, in part, that an exchange visitor may enter the United States under the aegis of a J visa if such visitor is a bona fide student actively engaged in bona fide academic study. Pursuant to this statute, Agency stewardship of the Exchange Visitor Program requires that the bona fides of an exchange visitor's academic studies be ascertained. The Agency concludes, in light of this statutory requirement, that a modification of the maximum age for participation in a secondary school student exchange program is required.

The Agency is obligated to utilize the United States standard of 12 years of primary and secondary school study in assessing bona fide student status. Students who have completed not more than eleven years of primary and secondary study will be deemed, automatically, bona fide secondary school students. Attendance in kindergarten should be excluded for the purpose of calculating years of study under this 12 year standard. This standard is of limited importance except to those students who continue their studies into A-level or international baccalaureate programs or their equivalent. Students who complete this additional level of study are, in academic terms, the equivalent of United States college and university students.

Students intending to continue their studies in an A-level or international baccalaureate program may participate in a secondary school student exchange program prior to their enrollment in A-level or international baccalaureate studies. Such students will not have completed 12 years of study as determined by United States standards and would therefore be appropriately placed with their United States peers at the senior year of high school level.

After consultation with Agency-designated sponsors, and in an effort to accommodate potential secondary school student exchange participants who have completed international baccalaureate or A-level studies, the Agency has determined that bona fide secondary school student status should also be extended to participants who are not more than 18 and a half years of age at the time of enrollment in a United States secondary school.

It has come to the Agency's attention that some students have returned to the United States in an exchange program for a second year of study. The Agency concludes that this is an inappropriate practice which must be curtailed. To this end, the Agency directs at § 514.25(g), below, that sponsors specifically inquire whether a potential exchange student has previously participated in a secondary school exchange program and disqualify for further participation any student who has.

Provisions governing the enrollment in United States schools of selected student participants are set forth at § 514.25(f). The Agency seeks to safeguard this program's integrity and good reputation among school administrators by continuing to require the prior written acceptance of the student by an appropriate school official. Each September the Agency is contacted by local school principals who have been surprised to find an unannounced exchange student on the school's doorstep. Given the administrative burden and inconveniences which accompanies unanticipated arrivals, the Agency will henceforth strictly enforce the regulatory requirement that all students be authorized for school enrollment prior to their entry into the United States.

As a policy matter, the Agency seeks to ensure that all exchange participants are properly and timely informed of matters germane to their exchange experience. Pursuant to § 514.25(g) set forth below, the Agency requires that secondary student exchange sponsors provide all participants with advance notice of travel, school, community, and host family arrangements. This information must be provided well enough in advance of the student's departure from the home country to be of use to the student. Additionally, the student must be apprised of all operating procedures, rules, and regulations governing participation in the exchange program.

Host Family Selection, Placement, and Orientation

The Agency has considered, at some length, the recurrent problems associated with host family placements. Aware that tensions will develop naturally from the obligations which arise from serving as a host, the Agency seeks to introduce some measure of uniformity to host family selections.

Specific provisions governing host family selection are adopted as set forth at § 514.24(j), below.

First and foremost among such selection criteria is the need to ascertain that potential host families fully understand both the rewards of hosting an international student as well as the duties and obligations attendant thereto. To this end, the Agency will require that sponsors utilize a standard application form which solicits a detailed profile of the family and conduct an in-person interview with all family members residing in the home. In-person interviews will allow the sponsor to determine whether the potential host family is capable of providing a comfortable and nurturing home environment and that the decision to serve as a host family is one which is supported by all family members.

Due to the vulnerable position in which a student is placed by the nature of these exchanges, sponsors will be expected to undertake appropriate safeguards to ensure that the potential host family is of good reputation and character. Recognizing that one incident of abuse is beyond the pale of acceptability, the Agency must insist that sponsors exercise due diligence in the screening of all potential host families. A mere superficial compliance with this regulatory requirement will not be tolerated. Recommendations from members of the community as well as solicitation of the local school official's opinion of the potential host family may be considered a bare minimum in this regard. In similar fashion, sponsors must also satisfy themselves that the potential host family possess adequate
financial resources to undertake hosting obligations.

Having adequately screened the potential host family, sponsors will in turn be expected to properly orient the family concerning the exchange activity. Host families must be fully informed of the sponsor’s rules and regulations which govern the exchange program and be provided with a copy of Agency promulgated Exchange Visitor Program regulations. In addition to these requirements, the Agency will require, pursuant to §514.25(k) below, that sponsors conduct orientation workshops designed to familiarize the host family with cultural differences and practices as well as strategies for effective cross-cultural interaction.

Finally, the Agency concludes that the quality and integrity of secondary school student exchanges are best safeguarded by requiring sponsors to secure a host family placement for a student participant prior to his or her departure from the home country. This requirement, set forth at §514.25(1), below, when coupled with the requirement of advance written acceptance by local school officials will remove any uncertainty from the parameters of the student’s exchange. The Agency has been advised by sponsors that host family placements are always made before the student arrives in the United States. Without debating the veracity of this statement, the Agency concludes that a mechanism to ensure that such placements have been made in timely fashion is required.

To ensure that such host family placements, as well as school placements have been made, the Agency will require that sponsors submit to the Agency, by August 31st of each school year a listing of student participants, their school and host family placement. For placements beginning in the spring semester placement reports will be due by January 15th. This requirement is proposed in lieu of listing the name and address of the host family and school placement on the Form IAP-66 and embodies the suggestions of various exchange sponsors. In response to comments received, the Agency has extended the due date for submission of placement reports. It is important to note that placement reports will be required only when the sponsor has elected to secure the host family and school placements on the Form IAP-66. Placement reports are an accommodation to some program sponsors who have requested this added programmatic flexibility. The Agency has determined upon review of this matter that the practice of most sponsors is to list the host family and school placement. The Agency concludes that placement reports will provide the desired certainty in respect to the parameters of each individual exchange but will also allow sponsors to continue their administrative placement process as long as possible.

Section 514.25 Specialists

Exchanges of American and foreign specialists exemplify the reciprocal exchanges of persons that the Fulbright-Hays Act seeks to promote. These exchanges have resulted in a flow of specialists between the United States and other countries, and have contributed to the growth of mutual understanding and dissemination of knowledge that is at the heart of the Exchange Visitor Program. Such exchanges are primarily nonacademic and provide opportunities to increase the interchange of knowledge and ideas between American and foreign specialists, and promote improved professional relationships and communications.

Although specialists have played an important role in the Exchange Visitor Program, regulations which specifically address this category of exchange visitor participation have never been promulgated. The Agency received four comments regarding specialists, all involving the duration of program participation. Having reviewed these comments the Agency is herein adopting the regulations as proposed.

Section 514.27 Alien Physicians

Federal law requires that foreign physicians seeking to pursue graduate medical education or training in the United States must do so on a J visa. This centralization of authority for the admission of such aliens is due, in part, to past concerns regarding the academic and medical qualifications of foreign trained physicians. Since 1971, the Educational Commission for Foreign Medical Graduates ("ECFMG") has administered the issuance of Form IAP-66 for foreign medical graduates coming to the United States to pursue graduate medical education or training. Foreign physicians must successfully complete examinations administered by ECFMG which measure their command of medical sciences. Such exam was, until 1985, the Visa Qualifying Examination. Currently, the required exam is Parts I and II of the National Board of Medical Examiners Examination. The National Board of Medical Examiners plan, however, to adopt as of January 1993 a new examination, the United States Medical Licensure Examination Steps I, II, and III. In light of this impending change the proposed regulations require an alien physician participant to successfully pass this examination.

A total of six comments regarding alien physicians were received by the Agency. In response to these comments the Agency is adding an additional requirement that alien physicians engaged in clinical research or training must submit an agreement or contract from the accredited U.S. medical school, affiliated hospital, or scientific institution at which the research or training activity will occur. This addition is necessitated by statutory language set forth in the Health Care Professions Act, Public Law 94-484, as amended.

Section 514.28 International Visitors

In the proposed regulations, international visitors programs are for foreign nationals who are recognized or potential leaders and are selected by the Agency to participate in observation tours, discussions, consultations, professional meetings, conferences, workshops, and travel. The international visitors category is for people-to-people programs which seek to develop and strengthen professional and personal ties between key foreign nationals, Americans, and American institutions. The Agency will continue the general limitation of participation for international visitors to one year. Such exchanges are intended specifically for short-term exchanges.

The Agency continues to encourage the private sector and other government agencies to sponsor similar types of short-term exchange programs. The active participation of all parties is critical to the development and success of short-term exchange programs. Accordingly, the Agency sets forth the categories of short-term scholars and specialist, especially for the private sector, and government visitors for exchanges selected by U.S. federal, state, and local government agencies.

The Agency proposed that the category of international visitors be for its exclusive use. Three comments regarding international visitors were received. All comments suggested that this category of participation not be limited to government use only, or in the alternative that a "private sector visitors" category be created to mirror the international visitors category. Given the ability of designated sponsors to conduct exchanges similar in nature to the international visitor under other categorical designations, the Agency has determined it appropriate to reject this suggestion and adopt the proposed regulations without modification.
Section 514.29 Government Visitors

The Agency proposed the establishment of a government visitors category to encourage U.S. federal, state, and local government agencies to expand their role in the Exchange Visitor Program. Currently, a number of government agencies are designated sponsors of the Exchange Visitor Program. The Agency intends that government sponsors continue to use a variety of categories for their exchange visitors, including the category of government visitors.

For the purpose of this section, government agencies include such entities as U.S. federal, state, and local government agencies (e.g., federal agency or commission, a state department of education, county government, incorporated city, and local school district). A government agency as used in this category does include an international organization of which the U.S. is a member by treaty or statute. However, a government agency as used in this section does not include state colleges or universities, unless such programs are sponsored by their state department of education.

The Agency has proposed that foreign nationals be eligible for a government visitors program when they meet the following three criteria. They shall be (a) selected by a U.S. federal, state, or local government agency, (b) engaged in consultation, observation, training, or demonstration of special skills, and (c) an influential or distinguished person. Under this category, exchange visitors are eligible to participate in such activities as observation tours, discussions, consultations, professional meetings, conferences, workshops, and travel.

Two comments regarding this category were received, both of which questioned the Agency's reservation of international visitor to its own use and the need to create this additional category. The Agency believes that the government visitor category is necessary to meet the needs of the exchange community and is adopting the proposed regulation without modification.

Section 514.30 Camp Counselors

As discussed in subpart A above, the Agency has determined that camp counselor programs are an appropriate addition to the matrix of exchange activities conducted under the Exchange Visitor Program. Such exchanges have a long history and have provided thousands of foreign nationals the opportunity to observe the United States and its people through their employment with domestic summer camp facilities. Although the Agency has traditionally viewed these exchanges as a youth activity, upon review it appears appropriate to expand permissible participants to include bona fide youth workers and individuals demonstrating special skills.

The Agency will require that all participants be at least eighteen years of age and have not previously participated more than once in a camp counselor exchange. This latter requirement ensures that as many persons as possible are recruited for these exchanges and that the participants are not utilized for staffing purposes inconsistent with exchange objectives.

Sponsors must conduct in-person interviews with all potential participants and secure references regarding the participant's suitability for a camp placement. Most importantly, sponsors must understand no circumstances facilitate the entry of a participant for whom no camp placement has been arranged. The very nature of an exchange requires a prearranged placement. Recruitment of individuals and their "warehousing" in hotels awaiting placement arising from staff shortages is not viewed as an acceptable practice by the Agency. To ensure that placements are arranged in advance a placement report, reflecting the participant's name and placement, must be submitted to the Agency no later than July 1st of each program year.

The Agency received twenty-one comments regarding this issue, all urging that repeat placement be unlimited or modified to allow some discretion to permit more than two years of participation. After careful deliberation, the Agency has determined that the program and policy considerations underlying the proposed two year limitation outweigh the administrative convenience of camp directors which, was the suggested reason for dropping such two year limitation.

Subpart C: Status of Exchange Visitors

Regulations proposed in this subpart govern various administrative chores relating to an exchange participant's visa status. At § 514.40, the Agency adopts criteria for termination of a program participant's exchange visitor status. This regulation includes a provision which directs the sponsor to terminate a participant from the Exchange Visitor Program for willfull failure to maintain insurance coverage. Such provision is necessary to prompt compliance with the adopted insurance requirements. Sponsors may terminate an exchange participant for serious violations of sponsor program guidelines and directives. Sponsors shall terminate a participant due to his or her failure to pursue the activities for which sponsored.

At § 514.41 the Agency adopts regulations governing changes to a visitor's category of participation. Few programs request a change in their category of participation and the Agency has generally discouraged such action as a program matter. Recognizing that a change in category may often benefit both the participant and the Exchange Visitor Program, the Agency provides that requests for such change be submitted to the Agency for approval. The Agency intends to approve only those requests for change that are of unusual or exceptional circumstances. A change in category must be clearly consistent and closely related to the participant's original exchange objective. By way of illustration, a Ph.D. student participant may, upon a showing of unusual and exceptional circumstance, change to the research scholar category.

In an effort to simplify the visa status requirements for exchange participants, the Agency proposes that transfer of program transactions be facilitated by the sponsors involved without INS adjudication or Agency review. As set forth at § 514.42 sponsors seeking to facilitate a change of program for an exchange participant shall secure the participant's release from the original sponsor and notify the Agency by submitting a duly executed Form IAP-66 which reflects the new program termination date. INS adjudication of this extension will not be required so long as the extension does not exceed the categorical duration of participation limitation. As an illustration, a sponsor may extend a research participant's program, one year at a time, so long as the three-year category limitation on research scholar programs is not exceeded. As set forth in § 514.43, the sponsor shall notify the Agency of this action by forwarding a duly executed Form IAP-66 reflecting such extension. In those circumstances in which an extension past the categorical duration of participation is sought, Agency approval in INS adjudication will be required.

Finally, the provisions governing application of the two-year home country physical presence requirement
are set forth at §514.44. This long-standing program requirement is applicable to participants for whom government financing of the exchange was made or who have acquired skills for which there is a need in their home country. The Agency has developed, in cooperation with foreign governments, a listing of such skills. This "skills list" may be found at 49 FR 24194, et seq. (June 12, 1984). Revision of the skills list will begin in the near future. Waiver of the two-year home country requirement is possible and provisions governing such waiver requests are also set forth in this regulation. Provisions addressing waiver procedures as well as the composition and functions of a Waiver Review Board are also set forth.

Subpart D: Sanctions

The Agency received 40 comments on the proposed sanctions regulations. The comments were carefully reviewed and several important changes in the proposed regulations were made, as will be discussed below.

The Agency first promulgated regulations providing for sanctions for violations of the Exchange Visitor Program regulations in 1978. The regulations were expanded in 1987 to provide additional procedural due process rights of those threatened with suspension or revocation for violations of the Exchange Visitor Program Designation, Suspension, and Revocation Board ("the Board"). That the Board has had to be convened only once since 1987 to hear a revocation case speaks highly of the thousands of institutions which have been designated over the years as exchange visitor program sponsors. Nevertheless, the Agency has long been hamstrung in its oversight of the Exchange Visitor Program by the absence of regulations providing for sanctions of less severity than suspension or revocation. As part of the overall regulatory reform of the Exchange Visitor Program, the Agency believes that the regulations, on the one hand, need to be strengthened so as to provide for sanctions against sponsors who violate the Exchange Visitor Program regulations and, on the other hand, to provide those offending sponsors with clearly defined procedural due process rights. This will improve the Agency's managerial oversight and allow the Agency to move rapidly against a sponsor whose acts or omissions endanger the health, safety or welfare of a program participant. The Agency believes that the final sanctions regulations meet the needs of all concerned.

As is true of all the Exchange Visitor Program regulations, the ultimate goals of the sanctions regulations are to further the foreign policy interest of the United States and to protect the health, safety and welfare of Exchange Visitor Program participants. A violation of the regulations may result in both of those goals being frustrated. For example, a secondary violation of the exchange program sponsor that willfully or negligently allows a teenager exchangee to come to the U.S. without first having placed the exchange with a host family, or that fails to confirm transportation arrangements for the exchangee, may have endangered that teenager's health, safety and/or welfare. Should a teenager be injured in an accident or as a victim of a crime, it is not only a personal tragedy, but there well may be adverse foreign policy effects arising from the incident.

To hypothesize another situation, if a sponsor undertakes to provide health and accident insurance to its program participants but actually fails to cover its participants, and a participant is injured in the course of participating in the program and requires extensive medical treatment for which the participant is unable to pay, then not only does the health care provider suffer financially but the reputation of the Exchange Visitor Program suffers as well. Indeed, resulting claims made by the health care provider may well have adverse foreign policy effects.

Clearly, not all violations of the Exchange Visitor Program regulations are of equal gravity. The final regulations recognize that violations of the regulations range over a spectrum from, for example, an inadvertent, negligent failure to comply with a program reporting requirement, at one end of the spectrum, to a willful act endangering the health or safety of a program participant, at the other end of the spectrum. Recognition of this spectrum of violations is reflected in the various sanctions provided for in the proposed regulations. Like the spectrum of violations, the sanctions also cover a spectrum, ranging from "lesser sanctions" for less serious violations to revocation for the most serious violations. The proposed regulations provide varying procedural due process safeguards at each level of sanctioning. The sanctions fall into four categories.

1. Lesser Sanctions

For minor violations of the regulations, which interfere with the Agency's proper administration of the Exchange Visitor Program but do not rise to the level of endangering the health, safety or welfare of program participants or of bringing the Program or the Agency into notoriety or disrepute, the final regulations provide for the imposition of sanctions of less severity than suspension or revocation. Examples of such violations may include, but are not limited to, the following: Failure to timely provide the Agency with an annual report; failure to provide the Agency with requested information to which it is entitled under the regulations; failure to adequately safeguard Forms IAP-66; negligent misrepresentations made by a sponsor in its promotional literature. The final regulations provide that, with respect to such violations, the Agency may, in its discretion, impose any or all of the following: A letter of reprimand, warning that repeated or persistent violations of the regulations may result in a suspension or revocation of the sponsor's designation, or a directive to the sponsors that it must reduce the scope of its exchange programs numerically, geographically, or in terms of the types of exchange programs it offers.

Upon being given notice that the Agency is imposing such a sanction, the sponsor has the opportunity to submit to the Agency any arguments in explanation or mitigation of the alleged violation. As requested by one commentator, the Agency has made provision in the final regulation that any submission, made by a sponsor shall be made a part of the sponsor's file at EVPS. The sponsor may request a conference to discuss its submission. However, the Agency is not required to grant such a request. The Exchange Visitor Program Office, upon its review of such submission, may, in its discretion, modify, withdraw, or continue the imposition of the sanctions.

2. Suspension

The final regulations provide that in all suspension actions, other than the summary suspension, the sponsor is given notice in writing that the Agency intends to suspend the sponsor's designation for a period not to exceed one hundred twenty (120) days, specifying the grounds for the suspension. Before the suspension takes effect, the sponsor has an opportunity to submit a response to the Agency, setting forth any reason as to why the Agency should not suspend, and may include any documentary evidence or affidavits in support thereof, including information which demonstrates that the sponsor is in compliance with all lawful requirements. After the Agency reviews the sponsor's submission, it notifies the sponsor of its decision on
whether or not to effect the suspension. If the decision is to effect the suspension, then the Agency must inform the sponsor of its right to appeal and of its right to a formal hearing before the Board.

The final regulations also set forth the sponsor’s procedural rights before the Board. The key difference between the “summary suspension” and all other suspension proceedings is that in the former the suspension takes effect immediately upon notice being given to the sponsor, whereas in the latter the suspension does not take effect until the Board decides to effect the suspension after the completion of the appeal and hearing.

3. Summary Suspension

Current regulations provide for a form of summary suspension. 22 CFR 514.17(b). However, the current regulations require the Agency to give the sponsor at least ten days notice that it intends to suspend the designation. The suspension does not take effect until the Office of General Counsel considers and takes into account any response submitted by the sponsor. If the Office of General Counsel decides to effect the suspension, then the sponsor may appeal to the Board, which must make a decision within ten working days from receipt of the appeal. Thus, the summary suspension is summary in name only; the process, even in the best of circumstances, is lengthy. The health, safety or welfare of a program participant might already have been endangered. Under current regulations the Agency is virtually powerless to act in a prompt and decisive manner.

In order to remedy this deficiency, the final regulations provide for a true summary suspension which empowers the Agency to suspend a sponsor a written notice of the Agency’s intent to suspend the sponsor’s designation for up to sixty (60) days. Prior to the suspension becoming effective, however, the sponsor has a right to submit a protest to the Agency setting forth any reason why its designation should not be suspended and demonstrating that the sponsor is in compliance with all lawful requirements. The Agency will review the protest and decide whether or not to effect the suspension. If the decision is made to effect the suspension the sponsor may appeal the suspension to the Board. However, the suspension is not stayed during the pendency of the appeal.

The summary suspension, as is set forth in the final regulations, is to be used only in the most serious situations where the sponsor’s acts of omission or commission could have the effect of endangering the health, safety, or welfare of an exchange visitor program participant and the Agency deems that immediate action is necessary.

4. Revocation

For serious willful violations of the Exchange Visitor Program regulations or for the omission or commission or an act which has or could have the effect of endangering the health, safety or welfare of an exchange visitor, where the Agency concludes that a continuation of the sponsor’s designation is detrimental to the Exchange Visitor Program, revocation of the sponsor’s designation may be the most appropriate sanction. Revocation is also the only realistic sanction to impose on the sponsor who willfully or through gross negligence repeatedly violates the regulations and takes no meaningful steps to bring itself into compliance.

Whereas the current regulations require that revocation must be preceded by suspension, the final regulation eliminates that requirement. Revocation commences with the Agency giving the sponsor not less than thirty days notice in writing, specifying the grounds for such revocation and the effective date of the revocation. The grounds for the revocation shall be stated in the notice, and before the revocation may take effect the sponsor has an opportunity to submit a response to the Agency providing any information in explanation or mitigation of the violations charged, or demonstrating that the sponsor is in compliance with all lawful requirements.

Upon receipt of such submission, the Agency will review same and notify the sponsor, in writing, of its decision. The sponsor is also notified of its right to appeal the revocation and of its right to a formal hearing. Within ten days of its receipt of the notice effecting the revocation, the sponsor may file its appeal with the Board. The filing of the notice of appeal serves to stay the revocation pending the appeal. The proposed regulation set forth the procedural rights accorded the sponsor at the hearing before the board.

5. Denial of Application for Redesignation

Current regulations make no provision for an appeal by an applicant in those cases where the Agency denies approval of an application for designation of an exchange visitor program. The final regulation creates a right of appeal for the applicant whose application is denied by the Office of Exchange Visitor Program Services and gives to that applicant the same procedural due process protections as are granted to sponsors against whom sanctions are imposed.

Several commenters expressed concern over § 514.9(3) of the proposed regulations. That section proposed that the Agency could recommend or direct the replacement of the responsible officer or any alternate responsible officer of a designated sponsor, but the provision afforded the responsible officer no appeal rights. The comments argued that replacement of a responsible officer was an unwarranted intrusion into the business and employment affairs of the sponsor and, moreover, the proposal did not provide the affected responsible officer with any procedural due process protections in a situation which could well affect the responsible officer’s employment.

As a result of the Agency’s review of the comments, the aforesaid § 514.9(3) was eliminated, and a new § 514.50(f) was inserted which provides that the appointment of a responsible officer or alternate responsible officer may be suspended or revoked. However, in such event, the responsible officer or alternate responsible officer has all of the rights of review or appeal that are accorded to a sponsor under the sanctions regulations.

The final regulation also sets forth the composition of the Board, which will consist of two Agency officials and a member of the public to be appointed by the Agency’s Bureau of Educational and Cultural Affairs, and sets forth in detail the powers of the Board in conducting hearings under this subpart.

Implementation Schedule

With the exception of the insurance regulations set forth in § 514.14, all regulations in part 514 shall become effective March 19, 1993. The insurance regulations shall become effective on September 1, 1994.

Regulatory Analysis and Notices

In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

This information collection imposes a reporting burden on various entities and, as such, has been approved by the Office of Management and Budget (OMB) under OMB No. 3116-0210, in accordance with 44 U.S.C. chapter 35.
List of Subjects in 22 CFR Part 514

Cultural Exchange Programs.

Dated: March 10, 1993.

R. Wallace Stuart,
Acting General Counsel.

Accordingly, 22 CFR part 514 is revised to read as follows:

PART 514—EXCHANGE VISITOR PROGRAM

Subpart A—General Provisions

§ 514.1 Purpose.


(b) The Director of the United States Information Agency 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.

Subpart D—Sanctions

§ 514.50 Sanctions.

Subpart E—Termination and Revocation of Programs

§ 514.60 Termination of designation.

§ 514.61 Revocation.

§ 514.62 Responsibilities of the sponsor upon termination or revocation.

Subpart F—[Reserved]

Subpart G—Summer/Work Travel

§ 514.80 Summer Student Travel/Work Program

Appendix A to Part 514—Certification of Responsible Officers and Sponsors.

Appendix B to Part 514—Exchange Visitor Program Services, Exchange Visitor Program Application.
An accredited college, university, or other post-secondary educational 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 territory or possession of the United States; or

An agency of the United States, or of any state or local government, the District of Columbia, or a territory or possession of the United States.

Consortium means a not-for-profit corporation or association formed by two or more accredited educational institutions for the purpose of sharing educational resources, conducting research, and/or developing new programs to enrich or expand the educational and cultural programs. Entities that participate in a consortium are not barred from having a separate exchange visitor program designation of their own.

Country of nationality or last legal residence means either the country of which the exchange visitor was 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 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.

Designation means the written authorization given by the Agency to an exchange visitor program applicant to conduct an exchange visitor program as a sponsor.

Director means the Director of the United States Information Agency or an employee of the Agency acting under a delegation of authority from the Director.

Employee means an individual who provides services or labor for an employer for wages or other remuneration but does not mean independent contractors, as defined in 8 CFR 274a.1(f).

Exchange visitor means 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 the United States temporarily on a J–1 visa. The term does not include the visitor's immediate family.

Exchange Visitor Program means the international exchange program administered by the Agency to implement the Act by means of educational and cultural 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 Agency.

Exchange Visitor Program Services means the Agency staff delegated authority by the Director to administer the Exchange Visitor Program in compliance with the regulations set forth in this part.

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 legal permanent residence.

Financed directly means financed in whole or in part by the United States 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.
(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.

Form IAP–66 means a Certificate of Eligibility, a controlled document of the Agency.

Full course of study means enrollment in an academic program of classroom participation and study, and/or doctoral thesis research at an accredited educational institution as follows:
(1) Secondary school students shall satisfy the attendance and course requirements of the state in which the school is located;
(2) College and university students shall register for and complete a full course of study, as defined by the accredited educational institution in which the student is registered, unless exempted in accordance with § 514.23(e).

Graduate medical education or training means participation in a program in which the alien physician will receive graduate medical education or training, which generally consists of a residency or fellowship program involving hands-on care 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.

Home-country physical presence requirement means the requirement that an exchange visitor who is within the purview of section 212(e) of the Immigration and Nationality Act (substantially quoted in § 514.44) 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.


Non-specialty occupation means any occupation that is not a specialty occupation (q.v.). Non-specialty occupations range from unskilled occupations up to and including skilled occupations requiring at least two years training or experience.

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

Prescribed course of study means 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 § 514.23.

Reciprocity means the participation of a United States 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 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 means the employee or officer of a designated sponsor who has been listed with the Agency as assuming the responsibilities outlined in § 514.11. The designation of alternate responsible officers is
permitted and encouraged. The responsible officer and alternate responsible officers must be citizens of the United States or persons who have been lawfully admitted for permanent residence.

Specialty occupation means an occupation that requires theoretical and practical application of a body of highly specialized knowledge to perform fully in the stated field of endeavor. It requires completion of a specified course of education, where attainment of such knowledge or its equivalent is the minimum competency requirement recognized in the particular field of endeavor in the United States. Some examples of specialized fields of knowledge are public and business administration, agricultural research, architecture, engineering, computer and physical sciences, accounting, and print and broadcast journalism.

Sponsor means a legal entity designated by the Director of the United States Information Agency to conduct an exchange visitor program.

Third party means an entity cooperating with or assisting the sponsor in the conduct of the sponsor's program. 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.

§514.3 Sponsor eligibility.

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

(1) United States local, state and federal government agencies;

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

(3) Reputable organizations which are "citizens of the United States," as that term is defined in §514.2.

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

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

§514.4 Categories of participant eligibility.

Sponsors may select foreign nationals to participate in their exchange visitor programs. Participation by foreign nationals in an exchange visitor program is limited to individuals who shall be engaged in the following activities in the United States:

(a) Student. An individual who is:

(1) Studying in the United States;

(2) Pursuing a full course of study at a secondary accredited educational institution;

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

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

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

(2) Engaged in academic training as permitted in §514.23(f); or

(3) Engaged in English language training at:

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

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

(b) Short-term scholar. 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 institutions, or similar type of institutions.

(c) Trainee. An individual participating in a structured training program conducted by the selecting sponsor.

(d) Teacher. An individual teaching full-time in a primary or secondary accredited educational institution.

(e) Professor. An individual primarily teaching, lecturing, observing, or consulting a post-secondary accredited educational institutions, museums, libraries, or similar types of institutions. A professor may also conduct research, unless disallowed by the sponsor.

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

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

(b) Other person of similar description. An individual of description similar to those set forth in paragraphs (a) through (g) coming to the United States, in a program designated by the Agency under this category, for the purpose of teaching, instructing or lecturing, study, observing, conducting research, consulting, demonstrating special skills, or receiving training. The programs designated by the Agency in this category consist of:

(1) International visitor. An individual who is a recognized or potential leader, selected by the Agency for consultation, observation, research, training, or demonstration of special skills in the United States.

(2) Government visitor. An individual who is an influential or distinguished person, selected by a U.S. federal, state, or local government agency for consultation, observation, training, or demonstration of special skills in the United States.

(3) Camp counselor. An individual selected to be a counselor in a summer camp in the United States who imparts skills to American campers and information about his or her country or culture.

§514.5 Application procedure.

(a) Any entity meeting the eligibility requirements set forth in §514.3 may apply to the Agency for designation as a sponsor. Such application shall be made on Form IAP-37 ("Exchange Visitor Program Application") and filed with the Agency's Exchange Visitor Program Services.

(b) The application shall set forth, in detail, the applicant's proposed exchange program activity and shall demonstrate its prospective ability to comply with Exchange Visitor Program regulations.

(c) The application shall be signed by the chief executive officer of the applicant and must also provide:

(1) Evidence of legal status as a corporation, partnership, or other legal entity (e.g., charter, proof of incorporation, partnership agreement, as applicable) and current certificate of good standing;

(2) Evidence of financial responsibility as set forth at §514.9(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
§514.8 General program requirements.

(a) Size of program. Sponsors, other than Federal government agencies, shall have no less than five exchange visitors per calendar year. The Agency may in its discretion and for good cause shown reduce this requirement.

(b) Minimum duration of program. Sponsors, other than federal government agencies, shall provide each exchange visitor, except short-term scholars, with a minimum period of participation in the United States of three weeks.

(c) Reciprocity. In the conduct of their exchange programs, sponsors shall make a good faith effort to achieve the fullest possible reciprocity in the exchange of persons.

(d) Cross-cultural activities. Sponsors shall:

(1) Offer or make available to exchange visitors 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 will be responsible to determine the appropriate type and number of cross-cultural programs for their exchange visitors. The Agency encourages sponsors to give their exchange visitors the broadest exposure to American society, culture and institutions; and (2) Encourage exchange visitors to voluntarily participate in activities which 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.

§514.9 General obligations of sponsors.

(a) Adherence to agency regulations. Sponsors are required to adhere to all regulations set forth in this part.

(b) Legal status. Sponsors shall maintain legal status. A change in a sponsor's legal status (e.g. partnership to corporation) shall require application for designation of the new legal entity.

(c) Accreditation and licensure. Sponsors shall remain in compliance with all local, state, federal, and professional requirements necessary to carry out the activity for which they are designated, including accreditation and licensure, if applicable.

(d) Representations and disclosures. Sponsors shall:

(1) Provide accurate and complete information, to the extent lawfully permitted, to the Agency regarding their exchange visitor programs and exchange visitors; (2) Provide only accurate information to the public when advertising their exchange visitor programs or responding to public inquiries; and (3) Provide informational materials to prospective exchange visitors which clearly explain the activities, costs, conditions, and restrictions of the program.

(e) Financial responsibility. (1) Sponsors shall maintain a financial capability to meet at all times their financial obligations and responsibilities attendant to sponsorship of exchange visitors. The Agency may require non-government sponsors to provide evidence satisfactory to the Agency that funds necessary to fulfill all obligations and responsibilities attendant to sponsorship of exchange visitors are readily available and in the sponsor's control, including such supplementary or explanatory financial information as the Agency may deem appropriate such as, for example, audited financial statements.

(3) The Agency may require any non-government sponsor to secure a payment bond in favor of the Agency guaranteeing all financial obligations arising from the sponsorship of exchange visitors. (f) Staffing and support services. Sponsors shall ensure:

(1) Adequate staffing and sufficient support services to administer their exchange visitor programs; and (2) That their employees, officers, agents, and third parties involved in the administration of their exchange visitor programs are appropriately trained, and comply with the Exchange Visitor Program regulations.

(g) Appointment of responsible officer. (1) The sponsor shall appoint a responsible officer and such alternate responsible officers as may be necessary to perform the duties set forth at §514.11. (2) The responsible officer and alternate responsible officers shall be employees or officers of the sponsor. The Agency may, however, in its discretion, authorize the appointment of an individual who is not an employee or officer to serve as an alternate.
Sponsors are responsible for the effective administration of their exchange visitor programs. These responsibilities include:

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

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

(2) The exchange visitor possesses sufficient proficiency in the English language to participate in his or her program.

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

(1) The purpose of the Exchange Visitor Program;

(2) Home-country physical presence requirement;

(3) Travel and entry into the United States;

(4) Housing;

(5) Fees payable to the sponsor;

(6) Other costs that the exchange visitor will likely incur (e.g., living expenses) while in the United States;

(7) Health care and insurance; and

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

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

(1) Life and customs in the United States;

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

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

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

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

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

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

(d) Form IAP-66. Sponsors shall ensure that only the responsible officer or alternate responsible officers issue Forms IAP-66;

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

(1) Ensure that the activity in which the exchange visitor is engaged is consistent with the category and activity listed on the exchange visitor's Form IAP-66;

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

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

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

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

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

§514.11 Duties of responsible officers.

Responsible officers shall train and supervise alternate responsible officers. Responsible officers and alternate responsible officers shall:

(a) Knowledge of regulations and codebook. Be thoroughly familiar with the Exchange Visitor Program regulations and the Agency's current Codebook and Instructions for Responsible Officers.

(b) Advisement and assistance. Ensure that the exchange visitor obtains sufficient advice and assistance to facilitate the successful completion of the exchange visitor's program.

(c) Communications. Conduct the official communications relating to the exchange visitor program with the Agency, the United States Immigration and Naturalization Service, or the United States Department of State. Reference to the sponsor’s program number shall be made on any correspondence with the Agency.

(d) Custody of the Form IAP-66. Act as custodian for the control, issuance, and distribution of Forms IAP-66 as set forth in §514.12.

§514.12 Control of Forms IAP-66.

Forms IAP-66 shall be used only for authorized purposes. To maintain adequate control of Forms IAP-66, responsible officers or alternate responsible officers shall:

(a) Requests. Submit written requests to the Agency for a one-year supply of Forms IAP-66, and allow four to six weeks for the distribution of these forms. The Agency has the discretion to determine the number of Forms IAP-66 to be sent to a sponsor. The Agency 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 Agency will consult with the responsible officer prior to determining the number of Forms IAP-66 to be sent to the sponsor. Additional forms may be requested later in the year if needed by the sponsor.

(b) Verification. Prior to issuing Form IAP-66, verify that the exchange visitor:

(1) Is eligible, qualified, and accepted for the program in which he or she will be participating;

(2) Possesses adequate financial resources to complete his or her program; and

(3) Possesses adequate financial resources to support any accompanying dependents.

(c) Issue of Form IAP-66. Issue the Form IAP-66 only so as to:

(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 IAP-66;

(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 Agency; 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.

(d) Safeguards. (1) Store Forms IAP-66 securely to prevent unauthorized use;

(2) Prohibit transfer of any blank Form IAP-66 to another sponsor or other person unless authorized in writing (by letter or facsimile) by the Agency to do so;
§514.13 Notification requirements.

(a) Change of circumstances. Sponsors shall promptly notify the Agency of any of the following circumstances:

(1) Change of its address, telephone, or facsimile number;
(2) Change in the composition of the sponsoring organization that affects its citizenship as defined by §514.2;
(3) Change of the responsible officer or alternate responsible official;
(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 license or accreditation;
(7) Loss or theft of Forms IAP-66 as specified in §514.12(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.

(b) Serious problem or controversy. Sponsors shall immediately notify the Agency of any serious problem or controversy which could be expected to bring the Agency into notoriety or disrepute.

(c) Program status of exchange visitor. Sponsors shall notify the Agency 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 IAP-66; or
(2) The exchange visitor has been terminated from his or her program.

§514.14 Insurance.

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

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

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

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

(c) Any insurance policy secured to fulfill the above requirements must be underwritten by an insurance corporation having an A.M. Best rating of "A-" or above, an Insurance Solvency International, Ltd. (ISI) rating of "A- " or above, a Standard & Poor's Claims-paying Ability rating of "A-" or above, a Weiss Research, Inc. rating of B+ or above, or such other rating service as the Agency may from time to time specify. Insurance coverage backed by the full faith and credit of the government of the exchange visitor's home country shall be deemed to meet this requirement.

(d) Federal, state or local government agencies, state colleges and universities, and public community colleges may, if faith and credit of the government of the exchange visitor's home country shall be deemed to meet this requirement.

§514.15 Annual reports.

Sponsors shall submit an annual report to the Agency. An illustrative form of such report may be found at Appendix D to this part. Such report shall be filed on an academic or calendar year basis, as directed by the Agency, and shall contain the following:

(a) Program report and evaluation. A brief summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness;
(b) Reciprocity. A description of the nature and extent of reciprocity occurring in the sponsor's exchange visitor program during the reporting year;
(c) Cross-cultural activities. A summary of the cross-cultural activities provided for its exchange visitors during the reporting year;
(d) Proof of insurance. Certification of compliance with insurance coverage requirements set forth in §514.14;
(e) Form IAP-66 usage. A report of Form IAP-66 usage during the reporting year setting forth the following information:

(1) The total number of blank Forms IAP-66 received from the Agency during the reporting year;
(2) The total number of Forms IAP-66 voided or destroyed by the sponsor during the reporting year and the document numbers of such forms;
(3) The total number of Forms IAP-66 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 IAP-66 in the possession of the sponsor on the date of the report.

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

(g) Redesignation. Sponsors may indicate their desire for redesignation, pursuant to §514.7, by marking the appropriate box on their annual report.

§514.16 Employment.

(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.

(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.

(c) The acceptance of employment by an accompanying spouse or minor child of an exchange visitor is governed by Immigration and Naturalization Service regulations.

§514.17 Fees and charges. [Reserved]

Subpart B—Specific Program Provisions

§514.20 Professors and research scholars.

(a) Introduction. These regulations govern professors and research scholars, except:

(1) Alien physicians in graduate medical education or training, who are governed by regulations set forth at §514.27; and

(2) Short-term scholars, who are governed by regulations set forth at §514.21.

(b) Purpose. A primary purpose of the Exchange Visitor Program is to foster the exchange of ideas between Americans and foreign nationals and to stimulate international collaborative teaching and research efforts. The exchange of professors and research scholars promotes interchange, mutual enrichment, and linkages between research and educational institutions in the United States and foreign countries. It does so by providing foreign professors and research scholars the opportunity to engage in research, teaching, and lecturing with their American colleagues, to participate actively in cross-cultural activities with Americans, and ultimately to share with their fellow citizens their experiences and increased knowledge about the United States and their substantive fields.

(c) Designation. The Agency may, in its sole discretion, designate bona fide programs which offer foreign nationals the opportunity to engage in research, teaching, lecturing, observing, or consulting at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions in the United States.

(d) Visitor eligibility. An individual participating in a program which furthers the objectives under §514.20(b) and whose activities are compatible with said objectives shall be eligible to participate in an exchange visitor program as a professor or research scholar. The exchange visitor's appointment to a position shall be temporary, even if the position itself is permanent. The individual shall not be a candidate for a tenure-track position.

(e) Insurance of Form IAP-66. The Form IAP-66 shall be issued only after the professor or research scholar has been accepted by the institution(s) where he or she will participate in an exchange visitor program.

(f) Location of the exchange.

Professors or research scholars shall conduct their exchange activity at the location(s) listed on the Form IAP-66, which could be either at the location of the exchange visitor sponsor or the site of a third party facilitating the exchange. An exchange visitor may also engage in activities at locations not listed on the Form IAP-66 if such activities constitute occasional lectures or consultations as permitted by §514.20(g).

(g) Occasional lectures or consultations. Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274a.1(i), and the following criteria and procedures shall be satisfied:

(1) Criteria. The occasional lectures or short-term consultations shall:

(i) Be directly related to the objectives of the exchange visitor's program;

(ii) Be incidental to the exchange visitor's primary program activities; and

(iii) Not delay the completion date of the visitor's program.

(2) Procedures.

(i) To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor shall present to the responsible officer:

(A) A letter from the offeror setting forth the terms and conditions of the offer to lecture or consult, including the duration, number of hours, field or subject, amount of compensation, and description of such activity; and

(B) A letter from his or her department head or supervisor recommending such activity and explaining how it would enhance the exchange visitor's program.

(ii) The responsible officer shall review the letters required in §514.20(g)(2)(i) above and make a written determination whether such activity is warranted and satisfies the criteria set forth in §514.20(g)(1).

(b) Category. At the discretion of the responsible officer, professors may freely engage in research and research scholars may freely engage in teaching and lecturing, unless disallowed by the sponsor. Because these activities are so intertwined, such a change of activity will not be considered a change of category necessitating a formal approval by the responsible officer or approval by the Agency. Any Form IAP-66 issued to the exchange visitor should reflect the current category of the exchange visitor, either professor or research scholar.

(i) Duration of participation. The exchange professor and research scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which time shall not exceed three years. A change between the categories of professor and research scholar shall not extend the exchange visitor's period of participation beyond the permitted three-year maximum duration, unless approved by the Agency.

(ii) Extension of program. Professors and research scholars may be considered for program extensions for up to 36 months as follows:

(1) Six-month extension. The responsible officer has the discretion to approve an extension upon a showing of good cause of up to six months for professors or research scholars beyond the three-year duration of participation permitted under §514.20(i). The purpose of such an extension is to provide the professor or research scholar the necessary time to complete his or her teaching and research responsibilities. The responsible officer shall notify the Agency as required in §514.43(c) when authorizing such an extension.

(2) Additional extension. The Agency, in its discretion, may approve an extension for a professor or research
scholar for good cause. Applications to the Agency for such extension may be filed any time, but should be filed no later than 45 days before the expiration of the exchange visitor's authorized stay. The application shall be in writing and shall:

(i) state the period of time the sponsor is requesting the extension for the exchange visitor; and
(ii) include a letter from the department head or supervisor of the exchange visitor:
(A) Indicating the expected date of completion of the exchange program; and
(B) Providing a description of the circumstances which warrant such an extension.

(3) Status of exchange visitor. (i) An exchange visitor who applies for an extension pursuant to § 514.20(j)(2) is considered to be in valid program status during pendency of the application.
(ii) An exchange visitor who applies for an extension pursuant to § 514.20(j)(2), and who subsequently receives Agency notice that the request has been denied, is considered to be in valid program status for an additional period of 30 days from the date of such notice or for a period of 30 days from expiration of the visitor's Form IAP–66, whichever is later.

§ 514.20 Short-term scholars.

(a) Introduction. These regulations govern all exchange visitor programs under which foreign nationals are provided with opportunities for receiving training in the United States. Regulations dealing with training opportunities which may, under certain conditions, be authorized for foreign students who are studying at post-secondary accredited educational institutions in the United States are found at § 514.23. Regulations governing medical trainees are found at § 514.2.7. (b) Purpose of training. The primary objectives of training are to enhance the exchange visitor’s skills in his or her specialty or non-specialty occupation through participation in a structured training program and to improve the participant’s knowledge of American techniques, methodologies, or expertise within the individual’s field of endeavor. Such training programs are also designed to enable the exchange visitor trainee to understand better American culture and society and to enhance American knowledge of foreign cultures and skills by providing the opportunity for an open interchange of ideas between the exchange visitor trainees and their American counterparts. Use of the Exchange Visitor Program for ordinary employment or work purposes is strictly prohibited. For this reason the regulations in this section are designed to distinguish between receiving training, which is permitted, and gaining experience, which is not permitted unless as a component of a bona fide training program.

(c) Designation of training programs. (1) The Agency groups occupations into specialty, non-specialty, or unskilled occupational categories. The Agency will designate training programs in specialty and non-specialty occupations. Training programs in unskilled occupations or occupations in other categories which the Agency may from time to time identify by publication in the Federal Register will not be designated. For purposes of these regulations, the Agency considers the occupations listed in Appendix E to part 514 to be "unskilled occupations."

(2) For purposes of designation, the Agency will designate specialty and skilled non-specialty occupational training programs in any of the following occupational categories:

(i) Arts and Culture;
(ii) Information Media and Communications;
(iii) Education, Social Sciences, Library Science, Counseling and Social Services;
(iv) Management, Business, Commerce and Finance;
(v) Health Related Occupations;
(vi) Aviation;
(vii) The Sciences, Engineering, Architecture, Mathematics, and Industrial Occupations;
(viii) Construction and Building Trades;
(ix) Agriculture, Forestry and Fishing;
(x) Public Administration and Law;
(xi) Other (Specify).

(3) Sponsors may apply for designation for training programs in any combination of specialty and/or non-specialty occupations. Once designated, the sponsor may provide training in any occupation falling within the designated category, if not otherwise prohibited from doing so. Sponsors shall provide training to exchange visitors only in the category or categories for which they have obtained Agency designation.

(d) Obligations of training program sponsors. (1) Sponsors designated by the Agency to provide training to foreign exchange visitors shall:

(i) Ensure that individuals and/or entities conducting training possess and maintain the demonstrable competence to provide training in the subjects offered to each exchange visitor.
(ii) Ensure that skills, knowledge, and competence are imparted to the trainees through a structured program of activities which are supportive and appropriate to the training experience. These may include, for example, classroom training, seminars, rotation through several departments, on-the-job
training, and attendance at conferences, as appropriate.

(ii) Develop, prior to the start of training, a detailed training plan geared to defined objectives for each trainee or group of similarly-situated trainees.

(iv) Ensure that continuous supervision and periodic of evaluation each trainee is provided.

(v) Ensure that sufficient plant, equipment, and trained personnel are available to provide the training specified.

(2) Sponsors designated by the Agency to provide training to foreign exchange visitors shall not:

(i) Provide training in unskilled occupations; or

(ii) Place trainees in positions which are filled or would be filled by full-time or part-time employees.

(e) Use of third parties. (1) The sponsor may utilize the services of third parties in the conduct of the designated training program. If a third party is utilized, the sponsor and the third party shall execute a written agreement which delineates the respective obligations and duties of the parties and specifically recites the third party's obligation to act in accordance with these regulations. The sponsor shall maintain a copy of such agreement in its files.

(2) The sponsor's use of a third party in the conduct of a designated training program does not relieve the sponsor of its obligation to comply, and to ensure the third party's compliance, with all applicable regulations. Any failure on the part of the third party to comply with all applicable regulations will be imputed to the sponsor.

(f) Application for designation of training programs. (1) An applicant for designation as an exchange visitor program shall demonstrate to the Agency its ability to comply with §514.22(d).

(2)(i) An applicant shall provide the Agency with documentary evidence of its competence to provide the training for which designation is sought.

(ii) If third parties are to be used to conduct one or more aspects of the activities for which designation is sought, the applicant shall provide the Agency with forms and procedures which will be used by the sponsor to ensure third party compliance with all applicable regulations and fulfillment of the goals and purposes of the sponsor's exchange visitor program.

(iii) If the applicant intends to utilize the services of third parties to conduct the training, a copy of an executed third-party agreement or, if one has not yet been executed, an illustrative copy of the type of agreement the applicant intends to execute with third parties shall be submitted with the application.

(3) If the training program is accredited in accordance with §514.22(n), the applicant shall include a copy of the accreditation in its application.

(4) The application shall include a certification that:

(i) Sufficient physical plant, equipment, and trained personnel will be dedicated to provide the training specified;

(ii) The program is not designed to recruit and train aliens for employment in the United States;

(iii) Trainees will not be placed in positions which displace full-time or part-time employees.

(iv) As to each occupational division for which the applicant seeks designation, the applicant shall indicate whether it intends to provide training in specialty or non-specialty occupations, or both.

(5) In order to meet the requirements of this subsection and to evidence the competence of the applicant and/or third parties conducting one or more aspects of the applicant's exchange visitor program to provide training, the applicant for designation may submit any one of the following types of training plans for each division for which designation is sought;

(i) If the applicant has already designed a structured training plan to use in the proposed exchange visitor program, a copy of such training plan may be submitted with the application;

(ii) If the applicant has not yet prepared a new training plan, but has been engaged previously in the type of training, directly or through third parties, for which designation is being sought, the applicant may demonstrate its capability to conduct such training by submitting a copy of a previously used training plan;

(iii) If the applicant proposes to create individualized training plans for as yet unidentified trainees, then the applicant may submit a hypothetical training plan which illustrates the training the applicant proposes to provide, directly or through third parties.

(g) The training plan. Each training plan required to be prepared for a trainee or group of trainees pursuant to §514.22(d)(1)(iii) above, shall include, at a minimum,

(1) a statement of the objectives of the training;

(2) the skills to be imparted to the trainee;

(3) a copy of the training syllabus or chronology;

(4) a justification for the utilization of on-the-job training to achieve stated course competencies; and

(5) a description of how the trainee will be supervised and evaluated.

(h) Agency consultation with experts. The Agency may consult experts whenever its examination of a training plan or its evaluation of application for designation indicates the need for such expertise in making an evaluation.

(i) Records. Sponsors shall retain for three years all records pertaining to individual trainees, training plans, trainee evaluations, and agreements with third parties. Such records shall be made available to the Agency upon the Agency's request.

(j) Selection of trainees. In addition to meeting the requirements of §514.10(a), trainees shall be fully qualified to participate successfully in a structured training program at a level appropriate for the individual trainee's career development. However, such training shall not be duplicative of the trainee's prior training and experience.

(k) Duration of participation. The duration of participation shall correspond to the length of the program set forth in the sponsor's designation.

The maximum period of participation in the Exchange Visitor Program for a trainee shall not exceed 18 months total.

(l) Financial and program disclosure. Sponsors shall provide trainees, prior to their arrival in the United States, with:

(1) A written statement which clearly states the stipend, if any, to be paid to the trainee;

(2) The costs and fees for which the trainee will be obligated;

(3) An estimate of living expenses during the duration of the trainee's stay; and

(4) A summary of the training program which recites the training objectives and all significant components of the program.

(m) Evaluation. In order to ensure the quality of the training program, the sponsor shall develop procedures for the ongoing evaluation of each training segment. Such evaluation shall include, as a minimum, midpoint and concluding evaluation reports from the trainee and his or her immediate supervisor, signed by both parties. For training courses of less than three months duration, evaluation reports are required upon conclusion of the training program.

(n) Flight training. (1) The Agency will consider the application for designation of a flight training program if such program complies with the above regulations, and, additionally,

(i) Is, at the time of making said application, a Federal Aviation
Administration certified pilot school pursuant to title 14, Code of Federal Regulations, part 141; and (ii) At the time of making said application is accredited as a flight training program by an accrediting agency which is listed in the current edition of the United States Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or is accredited as a flight training program by a member of the Council on Postsecondary Accreditation; or (iii) At the time of making said application has formally commenced the accreditation process with an accrediting agency which is listed in the current edition of the United States Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or with a member of the Council on Postsecondary Accreditation. If the application for designation is approved, such designation shall be for up to twelve-months duration, with continued designation thereafter conditioned upon completion of the accreditation process.

(2) Notwithstanding the provisions of §514.22(k), supra, the maximum period of participation for exchange visitors in designated flight training programs shall not exceed 24 months total. Any request for extension of time in excess of that authorized under this subsection shall be made in accordance with §514.43, infra.

(3) For purposes of meeting the evaluation requirements set forth in §514.22(m), sponsors and/or third parties conducting the training may utilize the same training records as are required by the Federal Aviation Administration to be maintained pursuant to 14 CFR 141.101.

§514.23 College and university students.

(a) Purpose. Programs under §514.23 provide foreign students the opportunity to participate in a designated exchange program while studying at a degree-granting post-secondary accredited educational institution. Exchange visitors under this category may participate in degree and non-degree programs. Such exchanges are intended to promote mutual understanding by fostering the exchange of ideas between foreign students and their American counterparts.

(b) Designation. The Agency may, in its sole discretion, designate bona fide programs which offer foreign nationals the opportunity to study in the United States at post-secondary accredited educational institutions.

(c) Selection criteria. Sponsors select the college and university students who participate in their exchange visitor programs. Sponsors shall secure sufficient background information on the students to ensure that they have the academic credentials required for their program. Students are eligible for the Exchange Visitor Program if at any time during their college studies in the United States:

(1) They or their program are financed directly or indirectly by (i) The United States Government; (ii) The government of the student's home country; or (iii) An international organization of which the United States is a member by treaty or statute;

(2) The programs are carried out pursuant to an agreement between the United States Government and a foreign government;

(3) The programs are carried out pursuant to written agreement between: (i) American and foreign educational institutions; (ii) An American educational institution and a foreign government; or (iii) A state or local government in the United States and a foreign government; or

(4) The exchange visitors are supported substantially by funding from any source other than personal or family funds.

(d) Admissions requirement. In addition to satisfying the requirements of §514.10(a), sponsors shall ensure that the exchange visitor student has been admitted to the post-secondary accredited educational institution(s) listed on the Form IAP–66 before issuing the form.

(e) Full course of study requirement. Exchange visitor students shall pursue a full course of study at a post-secondary accredited educational institution in the United States as defined in §514.2, except under the following circumstances:

(1) vacation. During official school breaks and summer vacations if the student is eligible and intends to register for the next term. A student attending a school on a quarter or trimester calendar may be permitted to take the annual vacation during any one of the quarters or trimesters instead of during the summer.

(2) Medical problem. If the student is compelled to reduce or interrupt a full course of study due to an illness or medical condition and the student presents to the responsible officer a written statement from the physician requiring or recommending an interruption or reduction in studies.

(3) Bona fide academic reason. If the student is compelled to pursue less than a full course of study for a term and the student presents to the responsible officer a written statement from the academic dean or advisor recommending the student to reduce his or her academic load to less than a full course of study due to an academic reason.

(4) Non-degree program. If the student is engaged full time in a prescribed course of study in a non-degree program of up to 24 months duration conducted by a post-secondary accredited educational institution.

(5) Academic training. If the student is participating in authorized academic training in accordance with §514.23(f).

(6) Final term. If the student needs less than a full course of study to complete the academic requirements in his or her final term.

(1) Academic training. (1) A student may participate in academic training programs during his or her studies, without wages or other remuneration, with the approval of the academic dean or advisor and the responsible officer.

(2) A student may be authorized to participate in academic training programs for wages or other remuneration:

(i) during his or her studies; or

(ii) commencing not later than thirty (30) days after completion of his or her studies, if the criteria, time limitations, procedures, and evaluations listed below in paragraphs (f) (3) to (6) are satisfied:

(3) Criteria.

(i) The student is primarily in the United States to study rather than engage in academic training;

(ii) The student is participating in academic training that is directly related to his or her major field of study at the post-secondary accredited educational institution listed on his or her Form IAP–66;

(iii) The student is in good academic standing with the post-secondary accredited educational institution; and

(iv) The student receives written approval in advance from the responsible officer for the duration and type of academic training.

(4) Time limitations. The exchange visitor is authorized to participate in academic training for the length of time necessary to complete the goals and objectives of the training, provided that the amount of time for academic training:

(i) Is approved by the academic dean or advisor and approved by the responsible officer;

(ii) For undergraduate and pre-doctoral training, does not exceed eighteen (18) months, inclusive of any prior academic training in the United States, or the period of full course of
study in the United States, whichever is less; except, additional time for academic training is allowed to the extent necessary for the exchange visitor to satisfy the mandatory requirements of his or her degree program in the United States;

(iii) For post-doctoral training, does not exceed a total of thirty-six (36) months, inclusive of any prior academic training in the United States as an exchange student or the period of the full course of study in the United States, whichever is less. A new Form IAP--66 shall be issued for each eighteen (18) month period.

(5) Procedures. To obtain authorization to engage in academic training:

(i) The exchange visitor shall present to the responsible officer a letter of recommendation from the student's academic dean or advisor setting forth:

(A) The goals and objectives of the specific training program;

(B) A description of the training program, including its location, the name and address of the training supervisor, number of hours per week, and dates of the training;

(C) How the training relates to the student's major field of study; and

(D) Why it is an integral or critical part of the academic program of the exchange visitor student.

(ii) The responsible officer shall:

(A) Determine if and to what extent the student has previously participated in academic training as an exchange student, in order to ensure the student does not exceed the period permitted in §514.23(f);

(B) Review the letter required in paragraph (f)(5)(i) of this section; and

(C) Make a written determination of whether the academic training currently being requested is warranted and the criteria and time limitations set forth in §514.23(f)(3) and (4) are satisfied.

(6) Evaluation requirements. The sponsor shall evaluate the effectiveness and appropriateness of the academic training in achieving the stated goals and objectives in order to ensure the quality of the academic training program.

(g) Student employment. Exchange visitor students may engage in part-time employment when the following criteria and conditions are satisfied:

(1) The student employment:

(i) Is pursuant to the terms of a scholarship, fellowship, or assistantship;

(ii) Occurs on the premises of the post-secondary accredited educational institution the visitor is authorized to attend; or

(iii) Occurs off-campus when necessary because of serious, urgent, and unforeseen economic circumstances which have arisen since acquiring exchange visitor status.

(2) Exchange visitor students may engage in employment as provided in paragraph (g)(1) of this section if the:

(i) Student is in good academic standing at the post-secondary accredited educational institution;

(ii) Student continues to engage in a full course of study, except for official school breaks and the student's annual vacation;

(iii) Employment totals no more than 20 hours per week, except during official school breaks and the student's annual vacation; and

(iv) The responsible officer has approved the specific employment in advance and in writing. Such approval may be valid up to twelve months, but is automatically withdrawn if the student's program is terminated.

(b) Duration of participation—(1) Degree exchange students. Exchange visitor students who are in degree programs shall be authorized to participate in the Exchange Visitor Program as long as they are either:

(i) Studying at the post-secondary accredited educational institution listed on their Form IAP--66 and are:

(A) Pursuing a full course of study as set forth in §514.23(e), and

(B) Maintaining satisfactory advancement towards the completion of their academic program; or

(ii) Participating in an authorized academic training program as permitted in §514.23(f).

(2) Non-degree students. Exchange visitors who are non-degree students shall be authorized to participate in the Exchange Visitor Program for up to 24 months, if they are either:

(i) Studying at the post-secondary accredited educational institution listed on their Form IAP--66 and are:

(A) Participating full-time in a prescribed course of study; and

(B) Maintaining satisfactory advancement towards the completion of their academic program; or

(ii) Participating in an authorized academic training program as permitted in §514.23(f).

§514.24 Teachers.

(a) Purpose. These regulations govern exchange visitor exchanges who teach full-time in primary and secondary accredited educational institutions. Programs under §514.24 promote the interchange of American and foreign teachers in public and private schools and the enhancement of mutual understanding between people of the United States and other countries. They do so by providing foreign teachers opportunities to teach in primary and secondary accredited educational institutions in the United States, to participate actively in cross-cultural activities with Americans in schools and communities, and to return home ultimately to share their experiences and their increased knowledge of the United States. Such exchanges enable visitors to understand better American culture, society, and teaching practices at the primary and secondary levels, and enhance American knowledge of foreign cultures, customs, and teaching approaches.

(b) Designation. The Agency may, in its discretion, designate bona fide programs satisfying the objectives in section (a) above as exchange visitor programs in the teacher category.

(c) Visitor eligibility. A foreign national shall be eligible to participate in an exchange visitor program as a full-time teacher if the individual:

(1) Meets the qualifications for teaching in primary or secondary schools in his or her country of nationality or last legal residence;

(2) Satisfies the standards of the U.S. state in which he or she will teach;

(3) Is of good reputation and character;

(4) Seeks to come to the United States for the purpose of full-time teaching at a primary or secondary accredited educational institution in the United States; and

(5) Has a minimum of three years of teaching or related professional experience.

(d) Visitor selection. Sponsors shall adequately screen teachers prior to accepting them for the program. Such screening, in addition to the requirements of §514.10(a), shall include:

(1) Evaluating the qualifications of the foreign applicants to determine whether the criteria set forth in §514.24(c) are satisfied; and

(2) Securing references from colleagues and current or former employers, attesting to the teachers' good reputation, character and teaching skills.

(e) Teaching position. Prior to the issuance of the Form IAP--66, the exchange visitor shall receive a written offer and accept in writing of a teaching position from the primary or secondary accredited educational institution in which he or she is to teach. Such position shall be in compliance with any applicable collective bargaining agreement, where one exists. The exchange visitor's appointment to a position at a primary or secondary accredited educational institution shall
be temporary, even if the teaching position is permanent.

(f) Program disclosure. Before the program begins, the sponsor shall provide the teacher, in addition to what is required §514.10(b), with:

1. Information on the length and location(s) of his or her exchange visitor program;

2. A summary of the significant components of the program, including a written statement of the teaching requirements and related professional obligations; and

3. A written statement which clearly states the compensation, if any, to be paid to the teacher and any other financial arrangements in regards to the exchange visitor program.

(g) Location of the exchange. The teacher shall participate in an exchange visitor program at the primary or secondary accredited educational institution(s) listed on his or her Form LAF-66 at locations where the institution(s) are involved in official school activities (e.g., school field trips and teacher training programs).

(h) Duration of participation. The teacher shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed three years.

§514.25 Secondary school students.

(a) Introduction. These regulations govern Agency designated exchange visitor programs under which foreign national secondary students are afforded the opportunity for up to one year of study in a United States public or private secondary school, while living with an American host family or residing at an accredited U.S. boarding school.

(b) Program sponsor eligibility. Eligibility for designation as a secondary school student exchange program sponsor shall be limited to:

1. Organizations with tax-exempt status as conferred by the Internal Revenue Service pursuant to section 501(c)(3); and

2. Organizations which are United States citizens as such terms is defined §514.2.

(c) Program eligibility. Secondary school students exchange programs designated by the Agency shall:

1. Require all participants to pursue a full course of study at an accredited educational institution as such terms are defined in this Part of not less than one academic semester (or quarter equivalency) nor more than two academic semesters (or quarter equivalency) duration; and

2. Be conducted on an academic calendar year basis provided, however,

participants may begin in the second semester of an academic year if specifically permitted to do so, in writing, by the school in which the exchange visitor is enrolled.

(d) Program administration. Sponsors shall ensure that all officers, employees, agents, and volunteers acting on their behalf:

1. Are adequately trained and supervised;

2. Make no student placement outside a 150 mile radius of the home of an organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters arising from a student's participation in their exchange program;

3. Ensure that no organizational representative act as both host family and area supervisor for any student participant whom that organizational representative may host;

4. Maintain a regular schedule of personal contact with the student and host family, and ensure that the school and host contact information for the local organizational representative and U.S. offices of the sponsor; and

5. Adhere to all regulatory provisions set forth in this Part and all additional terms and conditions governing program administration that the Agency may from time to time impose.

(e) Student selection. In addition to satisfying the requirements of §514.10(a), sponsors shall ensure that all participants in a designated secondary school student exchange program:

1. Are bona fide students who:

   i. Are secondary school students in their home country who have not completed more than eleven years of primary and secondary study, exclusive of kindergarten; or

   ii. Are at least 15 years of age but not more than 18 and six months years of age at the time of initial school enrollment;

2. Demonstrate maturity, good character, and scholastic aptitude; and

3. Have not previously participated in an academic year or semester secondary school student exchange program in the United States.

(f) Student enrollment. (1) Sponsors shall secure prior written acceptance for the enrollment of any student participant in a United States public or private secondary school. Such prior acceptance shall:

   i. Be secured from the school principal or other authorized school administrator of the school or school system that the student participant will attend; and

   ii. Include written arrangements concerning the payment of tuition or waiver thereof if applicable.

   (2) Sponsors shall maintain copies of all written acceptances and make such documents available for Agency inspection upon request.

   (3) Sponsors shall submit to the school a written English language summary of the student's complete academic course work prior to commencement of school.

   (4) Under no circumstance shall a sponsor facilitate the entry into the United States of a student for whom a school placement has not been secured.

   (5) Sponsors shall not facilitate the enrollment of more than five students in one school unless the school itself has requested, in writing, the placement of more than five students.

(g) Student orientation. In addition to the orientation requirements set forth herein at §514.10, all sponsors shall provide students, prior to their departure from the home country, with the following information:

1. A summary of all operating procedures, rules, and regulations governing student participation in the exchange program;

2. A detailed profile of the school, family, and community in which the student is placed;

3. A detailed summary of travel arrangements;

4. An identification card which lists the student's name, United States home placement address and telephone number, and a telephone number which affords immediate contact with both the Agency and sponsor in case of emergency. Such cards may be provided in advance of home country departure or immediately upon entry into the United States.

(h) Student extra-curricular activities. Students may participate in school sanctioned and sponsored extra-curricular activities, including athletics, if such participation is:

1. Authorized by the local school district in which the student is enrolled;

2. Authorized by the state authority responsible for determination of athletic eligibility, if applicable.

(i) Student employment. Students may not be employed on either a full or part-time basis but may accept sporadic or intermittent employment such as babysitting or yard work.

(j) Host family selection. Sponsors shall adequately screen all potential host families and at a minimum shall:

1. Provide potential host families with a detailed summary of the exchange program and the parameters of
their participation, duties, and obligations;
(2) Utilize a standard application form for all host family applicants which provides a detailed summary and profile of the host family, the physical home environment, family composition, and community environment;
(3) Conduct an in-person interview with all family members residing in the home;
(4) Ensure that the host family is capable of providing a comfortable and nurturing home environment;
(5) Ensure that the host family is a good reputation and character by securing two personal references for each host family from the school or community, attesting to the host family's good reputation and character;
(6) Ensure that the host family has adequate financial resources to undertake hosting obligations; and
(7) Maintain a record of application forms, evaluations, and interviews for all selected host families for a period of three years.

(k) Host family orientation. In addition to the orientation requirements set forth in § 514.10, sponsors shall:
(1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange program;
(2) Provide all selected host families with a copy of Agency-promulgated Exchange Visitor Program regulations; and
(3) Advise all selected host families of strategies governing cross-cultural interaction and conduct workshops which will familiarize the host family with cultural differences and practices.

(1) Host family placement. (1) Sponsors shall secure, prior to the student's departure from the home country, a host family placement for each student participant. Sponsors shall not:
(i) Facilitate the entry into the United States for a student for whom a host family placement has not been secured; and
(ii) Place more than one student with a host family without the express prior written consent of the Agency.
(2) Sponsors shall advise the student and host family, in writing, of the respective family compositions and backgrounds of each and shall facilitate and encourage the exchange of correspondence between the two prior to the student's departure from the home country.
(3) In the event of unforeseen circumstances which necessitate a change of host family placement, the sponsor shall document the reasons necessitating such change and provide the Agency with an annual statistical summary reflecting the number and the reason for such change in host family placement.

(m) Placement report. In lieu of listing the name and address of the host family and school placement of a participant's Form IAP-66, sponsors must, no later than August 31st of each academic year, submit to the Agency a report of all academic year program participants. Such report shall set forth the participant's name, school, and host family placements. A report of semester participants entering United States schools during the January to June term shall be submitted to the Agency by January 15th.

§ 514.26 Specialists.
(a) Introduction. These regulations govern experts in a field of specialized knowledge or skill coming to the United States for observing, consulting, or demonstrating special skills, except:
(1) Research scholars and professors, who are governed by regulations set forth at § 514.20;
(2) Short-term scholars, who are governed by regulations set forth at § 514.21; and
(3) Alien physicians in graduate medical education or training, who are governed by regulations set forth in § 514.27.
(b) Purpose. The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American specialists, who are defined as experts in a field of specialized knowledge or skills, and who visit the United States for the purpose of observing, consulting, or demonstrating their special skills. It does so by providing foreign specialists the opportunity to observe American institutions and methods of practice in their professional fields, and to share their specialized knowledge with their American colleagues. The exchange of specialists promotes mutual enrichment, and furthers linkages among scientific institutions, government agencies, museums, corporations, libraries, and similar types of institutions. Such exchanges also enable visitors to better understand American culture and society and enhance American knowledge of foreign cultures and skills. This category is intended for exchanges with experts in such areas, for example, as mass media communication, environmental science, youth leadership, international educational exchange, museum exhibitions, labor law, public administration, and library science. This category is not intended for experts covered by the exchange visitor categories listed in § 514.26(a) (1) through (3) of this section.
(c) Designation. The Agency may, in its discretion, designate bona fide programs satisfying the objectives in section (b) above as an exchange visitor program in the specialist category.
(d) Visitor eligibility. A foreign national shall be eligible to participate in an exchange visitor program as a specialist if the individual:
(1) Is an expert in a field of specialized knowledge or skill;
(2) Seeks to travel to the United States for the purpose of observing, consulting, or demonstrating his or her special knowledge or skills; and
(3) Does not fill a permanent or long-term position of employment while in the United States.
(e) Visitor selection. Sponsors shall adequately screen and select specialists prior to accepting them for the program, providing a formal selection process, including at a minimum:
(1) Evaluation of the qualifications of foreign nationals to determine whether they meet the definition of specialist as set forth in § 514.4(g); and
(2) Screening foreign nationals to ensure that the requirements of § 514.10(a) are satisfied.
(f) Program disclosure. Before the program begins, the sponsor shall provide the specialist, in addition to what is required in § 514.10(b), with:
(1) Information on the length and location(s) of his or her exchange visitor program;
(2) A summary of the significant components of the program; and
(3) A written statement which clearly states the stipend, if any, to be paid to the specialist.
(g) Issuance of Form IAP-66. The Form IAP-66 shall be issued only after the specialist has been accepted by the organization(s) with which he or she will participate in an exchange visitor program.
(h) Location of the exchange. The specialist shall participate in an exchange visitor program at the location(s) listed on his or her Form IAP-66.
(i) Duration of participation. The specialist shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 514.27 Alien physicians.
(a) Purpose. Pursuant to the Mutual Educational and Cultural Exchange Act, as amended by the Health Care Professions Act, Public Law 94–484, the Agency facilitates exchanges for foreign medical graduates seeking to pursue
graduate medical education or training at accredited schools of medicine or scientific institutions. The Agency also facilitates exchanges of foreign medical graduates seeking to pursue programs involving observation, consultation, teaching, or research activities.

(b) Clinical exchange programs. The Educational Commission for Foreign Medical Graduates must sponsor alien physicians who wish to pursue programs of graduate medical education or training conducted by accredited U.S. schools of medicine or scientific institutions. Such Foreign Medical Graduates shall:

(1) Have adequate prior education and training to participate satisfactorily in the program for which they are coming to the United States;

(2) Will be able to adapt to the educational and cultural environment in which they will be receiving their education or training;

(3) Have the background, needs, and experiences suitable to the program as required in § 514.10(a)(1);

(4) Have competency in oral and written English;

(5) Have passed either Parts I and II of the National Board of Medical Examiners Examination, the Foreign Medical Graduate Examination in the Medical Sciences, the United States Medical Licensing Examination, Step I and Step II, or the Visa Qualifying Examination (VQE) prepared by the National Board of Medical Examiners, administered by the Educational Commission for Foreign Medical Graduates. [NB—Graduates of a school of medicine accredited by the Liaison Committee on Medical Education are exempted by law from the requirement of passing either Parts I and II of the National Board of Medical Examiners Examination or the Visa Qualifying Examination (VQE); and

(6) Provide a statement of need from the government of the country of their nationality or last legal permanent residence. Such statement must provide written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien physician seeks to acquire and shall be submitted to the Educational Commission for Foreign Medical Graduates by the participant’s government. The statement of need must bear the seal of the concerned government and be signed by a duly designated official of the government. The text of such statement of need shall read as follows:

Name of applicant for Visa: __________. There currently exists in (Country) a need for qualified medical practitioners in the specialty of __________. (Name of applicant for Visa) has filed a written assurance with the government of this country that he/she will return to this country upon completion of training in the United States and intends to enter the practice of medicine in the specialty for which training is being sought. Stamp (or Seal and signature) of issuing official of named country.

Dated: __________.

Official of Named Country.

(7) Submit an agreement or contract from a U.S. accredited medical school, an affiliated hospital, or a scientific institution to provide the accredited graduate medical education. The agreement or contract must be signed by both the alien physician and the official responsible for the training.

(c) Non-clinical exchange programs.

(1) A United States university or academic medical center which has been designated an exchange visitor program by the Director of the United States Information Agency is authorized to issue Form IAP—66 to alien physicians to enable them to come to the United States for the purposes of observation, consultation, or research.

(i) The responsible officer or duly designated alternate of the exchange visitor program involved signs and appends to the Form IAP—66 a certification which states “this certifies that the program in which (name of physician) is to be engaged is solely for the purpose of observation, consultation, teaching, or research and that no element of patient care is involved” or

(ii) The dean of the involved accredited United States medical school or his or her designee certifies to the following five points and such certification is appended to the Form IAP—66 issued to the perspective exchange visitor alien physician:

(A) The program in which (name of physician) will participate is predominantly involved with observation, consultation, teaching, or research.

(B) Any incidental patient contact involving the alien physician will be under the direct supervision of a qualified medical practitioner in the specialty of __________. (Name of applicant for Visa) will not be given final responsibility for the diagnosis and treatment of patients.

(C) The alien physician will not be involved in direct patient care.

(D) Any activities of the alien physician will be exempted by law from the requirement of completing a residency in the specialty.

(E) Any experience gained in this program will not be creditable towards any clinical requirements for medical specialty board certification.

(2) The Educational Commission for Foreign Medical Graduates may also issue Form IAP—66 to alien physicians who are coming to the United States to participate in a program of observation, consultation, teaching, or research provided the required letter of certification as outlined in this paragraph is appended to the Form IAP—66.

(d) Public health and preventive medicine programs. A United States university, academic medical center, school of public health, or other public health institution which has been designated as an exchange visitor program sponsor by the Director of the United States Information Agency is authorized to issue Forms IAP—66 to alien physicians to enable them to come to the United States for the purpose of beginning those programs which do not include any clinical activities involving direct patient care. Under these circumstances, the special eligibility requirements listed in paragraphs (b) and (c) of this section need not be met. The responsible officer or alternate responsible officer of the exchange visitor program involved shall append a certification to the Form IAP—66 which states:

This certifies that the program in which (name of physician) is to be engaged does not include any clinical activities involving direct patient care.

(e) Duration of participation. (1) The duration of an alien physician’s participation in a program of graduate medical education or training is limited to the time typically required to complete such program. Duration shall be determined by the Director of the United States Information Agency at the time of the alien physician’s entry into the United States. Such determination shall be based on criteria established in coordination with the Secretary of Health and Human Services and which take into consideration the requirements of the various medical specialty boards as evidenced in the Director of Medical Specialties published by Marquis Who’s Who for the American Board of Medical Specialties.

(2) Duration of participation is limited to seven years unless the alien physician has demonstrated to the satisfaction of the Director that the country to which the alien physician will return at the end of additional specialty education or training has an exceptional need for an individual with such additional qualification.
(3) Subject to the limitations set forth above, duration of participation may, for good cause shown, be extended beyond the period of actual training or education to include the time necessary to take an examination required for certification by a specialty board.

(4) The Director may include within the duration of participation a period of supervised medical practice in the United States if such practice is an eligibility requirement for certification by a specialty board.

(i) Alien physicians shall be permitted to undertake graduate medical education or training in a specialty or subspecialty program whose board requirements are not published in the Director of Medical Specialists if the Board requirements are certified to the Director and to the Educational Commission for Foreign Medical Graduates by the Executive Secretary of the cognizant component board of the American Board of Medical Specialties.

(ii) The Director may, for good cause shown, grant an extension of the program to permit an alien physician to repeat one year of clinical medical training.

(5) The alien physician must furnish the Attorney General each year with an affidavit (Form I-644) that attests the alien physician:

(i) Is in good standing in the program of graduate medical education or training in which the alien physician is participating; and

(ii) Will return to the country of his nationality or last legal permanent resident upon completion of the education or training for which he came to the United States.

(f) Change of program. The alien physician may, once and not later than two years after the date the alien physician enters the United States as an exchange visitor or acquires exchange visitor status, change his designated program of graduate medical education or training if the Director approves the change and if the requirements of paragraphs § 514.27(b) and § 514.27(e) of this section are met for the newly designated specialty.

(g) Applicability of section 212(e) of the Immigration and Nationality Act. (1) Any exchange visitor physician coming to the United States on or after January 10, 1977 for the purpose of receiving graduate medical education or training is automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended. Such physicians are not eligible to be considered for section 212(e) waivers on the basis of "No Objection" statements issued by their governments.

(2) Alien physicians coming to the United States for the purpose of observation, consultation, teaching, or research are not automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, but may be subject to this requirement if they are governmentally financed or pursuing a field of study set forth on their countries' Exchange Visitor Skills List. Such alien physicians are eligible for consideration of waivers under section 212(e) of the Immigration and Nationality Act, as amended, on the basis of "No Objection" statements submitted by their governments in their behalf through diplomatic channels to the Director of the United States Information Agency.

§ 514.28 International visitors.

(a) Purpose. The international visitor category is for the exclusive use of the U.S. federal, state, or local government agencies. Programs under § 514.28 are for foreign nationals who are recognized as influential or distinguished persons, and are selected by U.S. federal, state, or local government agencies to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These are people-to-people programs designed to enable government visitors to better understand American culture and society, and to contribute to enhanced American knowledge of foreign cultures. The objective is to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions. The government visitor programs are for such persons as editors, business and professional persons, government officials, and labor leaders.

(b) Designation. The Agency may, in its sole discretion, designate as sponsors U.S. federal, state, and local government agencies which offer foreign nationals the opportunity to participate in people-to-people programs which promote the purpose as set forth in (a) above.

(c) Selection. Sponsors shall adequately screen and select prospective government visitors to determine compliance with § 514.10(a) and the visitor eligibility requirements set forth below.

(d) Visitor eligibility. An individual participating in an exchange visitor program as an international visitor shall be:

(1) Selected by the Agency;

(2) Engaged in consultation, observation, research, training, or demonstration of special skills; and

(3) A recognized or potential leader in a field of specialization, knowledge or skill.

(e) Program disclosure. At the beginning of the program, the sponsor shall provide the international visitor with:

(1) Information on the length and location(s) of his or her exchange visitor program; and

(2) A summary of the significant components of the program.

(f) Issuance of Form IAP–66. The Form IAP–66 shall be issued only after the international visitor has been selected by the Agency.

(g) Duration of participation. The international visitor shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 514.29 Government visitors.

(a) Purpose. The government visitor category is for the exclusive use of the U.S. federal, state, or local government agencies. Programs under § 514.29 are for foreign nationals who are recognized as influential or distinguished persons, and are selected by U.S. federal, state, or local government agencies to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These are people-to-people programs designed to enable government visitors to better understand American culture and society, and to contribute to enhanced American knowledge of foreign cultures. The objective is to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions. The government visitor programs are for such persons as editors, business and professional persons, government officials, and labor leaders.

(b) Designation. The Agency may, in its sole discretion, designate as sponsors U.S. federal, state, and local government agencies which offer foreign nationals the opportunity to participate in people-to-people programs which promote the purpose as set forth in (a) above.

(c) Selection. Sponsors shall adequately screen and select prospective government visitors to determine compliance with § 514.10(a) and the visitor eligibility requirements set forth below.

(d) Visitor eligibility. An individual participating in an exchange visitor program as a government visitor shall be:

(1) Selected by a U.S. federal, state, and local government agency;

(2) Engaged in consultation, observation, training, or demonstration of special skills; and

(3) An influential or distinguished person.

(e) Program disclosure. Before the beginning of the program, the sponsor shall provide the government visitor with:
§ 514.30 Camp counselors.

(a) Introduction. In order to promote diverse opportunities for participation in educational and cultural exchange programs, the Agency designates exchange sponsors to facilitate the entry of foreign nationals to serve as counselors in U.S. summer camps. These programs promote international understanding by improving American knowledge of foreign cultures while enabling foreign participants to increase their knowledge of American culture. The foreign participants are best able to carry out this objective by serving as counselors per se, that is, having direct responsibility for supervision of groups of American youth and of activities that bring them into interaction with their charges. While it is recognized that some non-counseling chores are an essential part of camp life for all counselors, this program is not intended to assist American camps in bringing in foreign nationals to serve as janitors, menial laborers, such as dishwashers or administrative personnel, cooks, or their knowledge of American culture. The foreign participants are best able to carry out this objective by serving as counselors per se, that is, having direct responsibility for supervision of groups of American youth and of activities that bring them into interaction with their charges. While it is recognized that some non-counseling chores are an essential part of camp life for all counselors, this program is not intended to assist American camps in bringing in foreign nationals to serve as janitors, menial laborers, such as dishwashers or administrative personnel, cooks, or

(b) Participant eligibility. Participation in camp counselor exchange programs is limited to foreign nationals who:

(1) Are at least 18 years of age;
(2) Are bona fide youth workers, students, teachers, or individuals with specialized skills; and
(3) Have not previously participated more than once in a camp counselor exchange.

(c) Participant selection. In addition to satisfying the requirements in § 514.10(a), sponsors shall adequately screen all international candidates for camp counselor programs and at a minimum:

(1) Conduct an in-person interview; and
(2) Secure references from a participant's employer or teacher regarding his or her suitability for participation in a camp counselor exchange.

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

(1) Duties and responsibilities relating to their service as a camp counselor;
(2) Contractual obligations relating to their acceptance of a camp counselor position; and
(3) Financial compensation for their service as a camp counselor.

(e) Participant placements. Sponsors shall place eligible participants at camping facilities which are:

(1) Accredited;
(2) A member in good standing of the American Camping Association;
(3) Officially affiliated with a nationally recognized non-profit organization; or
(4) Have been inspected, evaluated, and approved by the sponsor.

(f) Participant compensation. Sponsors shall ensure that international participants receive pay and benefits commensurate with those offered to their American counterparts.

(g) Participant supervision. Sponsors shall provide all participants with a phone number which allows 24 hour immediate contact with the sponsor.

(h) Program administration. Sponsors shall:

(1) Comply with all provisions set forth in subpart A of this part;
(2) Not facilitate the entry of any participant for a program of more than four months duration; and
(3) Under no circumstance facilitate the entry into the United States of a participant for whom a camp placement has not been pre-arranged.

(i) Placement report. In lieu of listing the name and address of the camp facility at which the participant is placed on Form IAP-66, sponsors shall submit to the Agency, no later than July 1st of each year, a report of all participant placements. Such report shall reflect the participant's name and camp placement.

Subpart C—Status of Exchange Visitors

§ 514.40 Termination of program participation.

(a) A sponsor shall terminate an exchange visitor's participation in its program when the exchange visitor:

(1) Fails to pursue the activities for which he or she was admitted to the United States;
(2) Is unable to continue, unless otherwise exempted pursuant to these regulations;
(3) Violates the Exchange Visitor Program regulations and/or the sponsor's rules governing the program, if, in the sponsor's opinion, termination is warranted;
(4) Willfully fails to maintain the insurance coverage required under § 514.14 of these regulations; or
(5) Engages in unauthorized employment.

(b) An exchange visitor's participation in the Exchange Visitor Program is subject to termination when he or she engages in unauthorized employment. Upon establishing such violation, the Agency shall terminate the exchange visitor's participation in the Exchange Visitor Program.

§ 514.41 Change of category.

(a) The Agency may, in its discretion, permit an exchange visitor to change his or her category of exchange participation. Any change in category must be clearly consistent with and closely related to the participant's original exchange objective and necessary due to unusual or exceptional circumstances.

(b) A request for change of category along with supporting justification must be submitted to the Agency by the participant's sponsor. Upon Agency approval the sponsor shall issue to the exchange visitor a duly executed Form IAP-66 reflecting such change of category and provide a notification copy of such form to the Agency.

(c) Requests for change of category from research scholar to student will be evaluated recognizing the fact that, in some cases, research skills can be substantially enhanced by doctoral study.

(d) An exchange visitor who applies for a change of category pursuant to these regulations is considered to be maintaining lawful status during the pendency of the application.

(e) An exchange visitor who applies for a change of category and who subsequently receives notice from the Agency that the request has been denied is considered to be maintaining lawful status for an additional period of thirty days from the day of such notice, during which time the exchange visitor is
expected to depart the country, or for a period of thirty days from expiration of the exchange visitors' Form IAP-66, whichever is later.

§514.42 Transfer of program.

(a) Program sponsors may, pursuant to the provisions set forth in this section, permit an exchange visitor to transfer from one designated program to another designated program.

(b) The responsible officer of the program to which the exchange visitor is transferring:

(1) Shall verify the exchange visitor's visa status and program eligibility;
(2) Execute the Form IAP-66; and
(3) Secure the written release of the current sponsor.

(c) Upon return of the completed Form IAP-66, the responsible officer of the program to which the exchange visitor has transferred shall provide:

(1) The exchange visitor his or her copy of the Form IAP-66; and
(2) A notification copy of such form to the Agency.

§514.43 Extension of Program.

(a) Responsible officers may extend an exchange visitor's participation in the Exchange Visitor Program up to the limit of the permissible period of participation authorized for his or her specific program category.

(b) A responsible officer extending the program of an exchange visitor shall issue to the exchange visitor a duly executed Form IAP-66 reflecting such extension and provide a notification copy of such form to the Agency.

(c) The responsible officer seeking a program extension on behalf of an exchange visitor in excess of that authorized for his or her specific category of participation shall:

(1) Adequately document the reasons which justify such extension; and
(2) Secure the prior written approval of the Agency for such extension.

(d) In addition to individual requests, the Agency shall entertain requests for groups of similarly situated exchange visitors.

§514.44 Two-year home-country physical presence requirement.

(a) Statutory basis for rule. Section 212(a) of the Immigration and Nationality Act, as amended, provides in substance as follows:

(1) No person admitted under Section 101(a)(15)(J) or acquiring such status after admission:

(i) Whose participation in the program for which he came to the United States was financially in whole or in part, directly or indirectly, by an agency of the United States Government or by the government of the country of his nationality or of his last legal permanent residence;
(ii) Who at the time of admission or acquisition of status under 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged (See "Exchange Visitor Skills List", 49 FR 24194, et seq. (June 12, 1984) as amended); or

(ii) Who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until is established that such person has resided and been physically present in the country of his nationality or has his last legal permanent residence for an aggregate of at least two years following departure from the United States.

(2) Upon the favorable recommendation of the Director of the United States Information Agency, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after the latter has determined that departure from the United States would impose exceptional hardship upon the alien or his spouse or child (if such spouse or child is a citizen of the United States or a legal permanent resident alien), or on the grounds that such requirement would subject the exchange visitor to persecution on account of race, religion, or political opinion, the Commissioner shall transmit a copy of his determination to the responsible officer of the United States Information Agency services, and the exchange visitor's place of temporary residence in the United States, or, if the exchange visitor has already departed the United States, to the district Office having administrative jurisdiction over the exchange visitor's last legal place of residence in the United States.

(b) Request for waiver on the basis of exceptional hardship or probable persecution on account of race, religion, or political opinion.

(1) An exchange visitor who seeks a waiver of the two-year home-country physical presence requirement on the grounds that such requirement would impose exceptional hardship upon the exchange visitor's spouse or child (if such spouse or child is a citizen of the United States or a legal permanent resident alien), or on the grounds that such requirement would subject the exchange visitor to persecution on account of race, religion, or political opinion, shall submit the application for waiver (INS Form I-612) to the District Office of the Immigration and Naturalization Service having administrative jurisdiction over the exchange visitor's place of temporary residence in the United States, or, if the exchange visitor has already departed the United States, to the district Office having administrative jurisdiction over the exchange visitor's last legal place of residence in the United States.

(2)(i) If the Commissioner of the Immigration and Naturalization Service ("Commissioner") determines that compliance with the two-year home-country physical presence requirement would impose exceptional hardship upon the spouse or child of the exchange visitor, or would subject the exchange visitor to persecution on account of race, religion, or political opinion, the Commissioner shall transmit a copy of his determination together with a summary of the details of the expected hardship or persecution, to the Waiver Review Branch, office of Exchange Visitor Program Services, in the Agency's Office of General Counsel.

(ii) With respect to those cases in which the Commissioner has determined that compliance with the two-year home-country physical presence requirement would impose exceptional hardship upon the spouse or child of the exchange visitor, the Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case, make a recommendation, and forward it to the Commissioner. If it deems it appropriate, the Agency may request the views of each of the exchange visitors' sponsors concerning the waiver application. Except as set forth in §514.44(f)(4), infra, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(iii) With respect to those cases in which the Commissioner has determined that compliance with the
two-year home-country physical presence requirement would subject the exchange visitor to persecution on account of race, religion, or political opinion, the Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case, and after consulting thereon with the Bureau of Human Rights and Humanitarian Affairs of the United States Department of State, make a recommendation, and forward such recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), infra, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency and such recommendation shall be forwarded to the Commissioner.

(c) Requests for waiver made by an interested United States Government agency. If an exchange visitor is a participant in an exchange visitor program or activity sponsored by or of interest to an agency of the United States Government, said agency may apply to the Waiver Review Branch for a waiver of the two-year home-country physical presence requirement on the ground that the granting of the waiver would be in the public interest and the exchange visitor’s compliance with said requirement would be detrimental to a program or activity of interest to that agency. The application shall identify by name of the organization which will utilize the exchange visitor’s services and the name and address of the exchange visitor in the United States. The Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case and forward its recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), infra, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(d) Requests for waiver made on the basis of a statement from the exchange visitor’s home-country that it has no objection to the waiver. (1) Applications for waiver of the two-year home-country physical presence requirement may be supported by a statement of no objection by the exchange visitor’s country of nationality or last legal permanent residence. The statement of no objection shall be directed to the Director through diplomatic channels; i.e., from the country’s Foreign Office to the Agency through the U.S. Mission in the foreign country concerned, or through the foreign country’s head of mission or duly appointed designee in the United States to the Director in the form of a diplomatic note. This note shall include applicant’s full name, date and place of birth, and present address. Upon receipt of the no objection statement, the Waiver Review Branch shall instruct the applicant to complete a data sheet and to provide any forms IAP–66 and the data sheet to the Waiver Review Branch. If deemed appropriate, the Agency may request the views of each of the exchange visitor’s sponsors concerning the waiver application.

(2) The Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case and forward its recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), infra, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(3) An exchange visitor who is a graduate of a foreign medical school and who is pursuing a program in graduate medical education or training in the United States is prohibited under section 212(e) of the Immigration and Nationality Act from applying for a waiver on the basis of no objection from his or her country of nationality or last legal permanent residence.

(e) Changed circumstances. An applicant for a waiver on the grounds of extreme hardship or probable persecution on account of race, religion, or political opinion, has a continuing obligation to inform the Immigration and Naturalization Service of changed circumstances material to his or her pending application.

(1) The Exchange Visitor Waiver Review Board. (1) The Exchange Visitor Waiver Review Board (“Board”) shall consist of the following Agency officers: (i) The Deputy Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee, who shall serve as presiding officer of the Board; (ii) An officer appointed by the Deputy Associate Director of the Bureau of Educational and Cultural Affairs from an appropriate office of the Bureau; and (iii) The Deputy Director of the geographic area office responsible for the geographical area of the waiver applicant, or his or her designee.

(2) The Director of the office of Exchange Visitor Program Services shall convene the Board pursuant to § 514.44(f)(4), supra, the Waiver Review Branch shall transmit its complete file on the case, along with a request to convene the Board, to the Director of the office of Exchange Visitor Program Services.

(2) The Director of the office of Exchange Visitor Program Services shall promptly convene the Board and notify the Agency’s General Counsel of such convening of the Board.

(3) The General Counsel shall appoint, on a case-by-case basis, from among the attorneys in the Office of the General Counsel, one attorney to serve as legal advisor to the Board.

(4) Upon being convened, the Board shall review the case file and the program, policy, and foreign relations aspects of the case.

(5) The Board may consult with the attorney in the Office of the General Counsel who has been designated to serve as legal advisor to the Board.

(6) The Board may request that officers of the Waiver Review Branch appear before the Board and explain orally the basis for the recommendation of the Waiver Review Branch; however, no persons other than members of the Board and the Board’s legal advisor may be present during the Board’s deliberations.

(7) At the conclusion of its review of the case, the Board shall make a written
recommendation either granting or denying the waiver application. The recommendation of a majority of the Board shall constitute the recommendation of the Board.

(8) Each member of the Board shall sign the recommendation and transmit the recommendation to the Waiver Review Branch.

(9) The recommendation of the Board in any case reviewed by it shall constitute the recommendation of the Agency and such recommendation shall be forwarded by the Director of EVPS to the Commissioner.

Subpart D—Sanctions

§514.50 Sanctions.

(a) Reason for sanctions. The Agency may, upon a determination by the Office of Exchange Visitor Program Services (‘‘EVPS’’), impose sanctions against a sponsor which has:

(1) Willfully or negligently violated one or more provisions of this part; or

(2) Evidenced a pattern of willful or negligent failure to comply with one or more provisions of this part;

(3) Committed an act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor; or

(4) Committed an act or acts which may have the effect of bringing the Agency or the Exchange Visitor Program into notoriety or disrepute.

(b) Lesser sanctions. (1) In order to ensure full compliance with the regulations in this part, the Agency, in its discretion and depending on the nature and seriousness of the violation, may impose any or all of the following sanctions (‘‘lesser sanctions’’) on a sponsor for any of the reasons set forth in §514.50(a):

(i) Reprimand; or

(ii) A declaratory placing the exchange visitor sponsor on probation, for a period of time determined by the Agency in its discretion, notifying a pattern of serious willful or negligent violation of regulations such that further violations could lead to suspension or revocation;

(iii) A corrective action plan designed to cure the sponsor’s violations; or

(iv) A limitation or reduction in the authorized number of exchange visitors in the sponsor’s program or in the geographic area of the sponsor’s recruitment or activity.

(2) Within ten days of service of the written notice to the sponsor imposing any of the sanctions set forth in this paragraph, the sponsor may submit to EVPS any statement or information, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, and may request a conference. Upon its review and consideration of such submission, the Agency may, in its discretion, modify, withdraw, or confirm such sanction. All materials submitted by the sponsor shall become a part of the sponsor’s file with EVPS.

The decision of EVPS is not appealable with regard to lesser sanctions in paragraphs (b)(1)(i) to (iv), if:

(i) The proposed limitation in the size of the sponsor’s program is equivalent to 10 percent or less of the number of authorized visitors in the sponsor’s program during the previous calendar year; or

(ii) The proposed limitation in the size of the sponsor’s program will not cause a significant financial burden for the sponsor.

(c) Suspension or significant program limitation. (1) Upon a finding that a suspension, or a reduction in the sponsor’s program equivalent to a number greater than 10 percent of the number of authorized visitors, is warranted for any of the reasons set forth at §514.50(a), EVPS shall give written notice to the sponsor of the Agency’s intent to impose the sanction, specifying therein the reasons for such sanction and the effective date thereof, which shall not be sooner than 30 days after the date of the letter of notification.

(2) Prior to the proposed effective date of such sanction, the sponsor may submit a protest to EVPS, setting forth therein any reasons why a suspension or reduction should not be imposed. In the event the decision is to effect the suspension, the Agency shall notify the sponsor of its right to appeal the suspension and of its right to a formal hearing thereon.

(3) If within ten (10) days after the date of receipt of such notice, the sponsor does not submit opposition to or mitigation of the sanction, EVPS shall issue the sanction.

(4) The sponsor may, within ten (10) days after receipt of the aforesaid notice continuing the suspension, appeal the suspension to the Board by filing a notice of appeal with the Agency’s General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the effective date of the sanction pending appeal.

(5) Upon receipt of the notice of appeal, the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in §514.50(i), infra.

(d) Summary suspension. (1) EVPS may, upon a finding that a sponsor has willfully or negligently committed a serious act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor, and upon written notice to the sponsor specifying the reason thereof and the effective date thereof, notify the sponsor of the hurry to suspend the designation of the sponsor’s program for a period to exceed thirty (30) days.

(2) No later than ten (10) days after receipt of such notification, the sponsor may submit a rebuttal to EVPS, setting forth therein any reasons why a suspension should not be imposed.

(3) The sponsor may respond in writing to the sponsor’s statement or information in such protest, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, and may request a conference. If the decision is to effect the suspension, such notice shall advise the sponsor of its right to appeal the suspension and of its right to a formal hearing thereon.

(4) The sponsor may, within ten (10) days after receipt of the aforesaid notice continuing the suspension, appeal the suspension to the Board by filing a notice of appeal with the Agency’s General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the suspension pending appeal.

(e) Revocation. (1) EVPS may, for any reason set forth at §514.50(a), give the
sponsor not less than thirty (30) days notice in writing of its intent to revoke the sponsor's exchange visitor program designation, specifying therein the grounds for such revocation and the effective date of the revocation. Revocation need not be preceded by the imposition of a summary suspension, a suspension, or any lesser sanctions.

(2) Within ten (10) days of receipt of the aforesaid notice of intent to revoke, the sponsor shall have an opportunity to show cause as to why such revocation should not be imposed, and may submit to EVPS any statement of information, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the violations charged, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS.

(3) EVPS shall review and consider the sponsor's submission and, thereafter, notify the sponsor in writing of its decision on whether the revocation is to be effected. In the event that the decision on whether the revocation is to effect the revocation, such notice shall advise the sponsor of its right to appeal the revocation and of its right to a formal hearing thereon.

(4) The sponsor may, within twenty (20) days after receipt of the aforesaid notice effecting the revocation, appeal the revocation to the Board by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the effective date of the revocation pending appeal.

(5) Upon receipt of the notice of appeal the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in §514.50(i), infra.

(f) Responsible officers. (1) The Agency may direct a sponsor to summarily suspend, suspend or revoke the appointment of a responsible officer or alternate responsible officer for any of the reasons set forth in paragraph "(a)" above.

(2) In the event that such action is directed, the sponsor shall be entitled to all of the rights of review or appeal that are accorded to a sponsor under paragraphs "(b)". "(c)". "(d)" and "(e)" of this section.

(g) Denial of application for redesignation. (1) EVPS shall give an applicant for redesignation not less than thirty (30) days notice in writing of its intentions to deny the application for exchange visitor program redesignation, specifying therein the grounds for such denial.

(2) Within ten (10) days of receipt of the aforesaid notice of intent to deny the application, the applicant shall have an opportunity to demonstrate why the application should be approved, and may submit to EVPS any statement or information including, if appropriate, any documentary evidence or affidavits in support of its application.

(3) EVPS shall review and consider the applicant's submission and thereafter notify the applicant in writing of its decision on whether the application for redesignation will be approved. In the event that the decision is to deny the applicant, such notice shall advise the applicant of its right to appeal the denial and of its right to a formal hearing thereon.

(4) The applicant may, within twenty (20) days after receipt of the aforesaid notice of denial, appeal the denial to the Board by filing a Notice of Appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the Notice of Appeal shall serve to stay the effective date of the denial pending appeal.

(5) Upon receipt of the Notice of Appeal the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in §514.50(i), infra.

(i) General powers of the board. At any hearing before the Board pursuant to this Part, the Board may:

(1) Administer oaths and affirmations,

(2) Rule on offers of proof and receive any oral or documentary evidence;

(3) Require the parties to submit lists of proposed witnesses and exhibits, and otherwise regulate the course of the hearing;

(4) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(5) Dispose of motions, procedural requests, or similar matters; and

(6) Make decisions, which shall include findings of fact and conclusions of law on all the material issues of fact, law or discretion presented on the record, and the appropriate sanction or denial thereof.

(j) Proceedings before the board. The following procedures shall govern all designation, suspension, summary suspension, and revocation proceedings before the Board:

(1) Upon being convened, the Board shall schedule a hearing, within ten (10) days, at which hearing the parties may appear on their own behalf or by counsel, present oral or written evidence, and cross-examine witnesses.

A substantially verbatim record of the hearing shall be made and shall become a part of the record of the proceeding;

(2) At the conclusion of the hearing, the Board shall promulgate the evidence and issue a written decision within ten (10) days, signed by a majority of the members, stating the basis for its decision. The decision of the majority shall be the decision of the Board. If a Board member disagrees with the majority, the member may write a dissenting opinion;

(3) If the Board decides to affirm the suspension, summary suspension, revocation, or denial of redesignation, a copy of its decision shall be delivered to EVPS, the sponsor, the Immigration and Naturalization Service, and the Bureau of Consular Affairs of the Department of State. EVPS, at its discretion, may distribute the Board's decision as it deems appropriate; and

(4) The suspension, revocation, or denial of designation shall be effective as of the date of the Board's decision.

(k) Effect of suspension, summary suspension, revocation, or denial of redesignation. A sponsor against which an order of suspension, summary suspension, revocation, or denial of redesignation has been entered shall not thereafter issue any Forms IAP–66, advertise, recruit, or otherwise promote its program, and under no circumstances shall the sponsor facilitate the entry of an exchange
Designation shall be terminated when any of the circumstances set forth in this section occur.
(a) Voluntary termination. A sponsor may voluntarily terminate its designation by notifying the Agency of such intent. The sponsor's designation shall terminate upon such notification. Such sponsor may apply for redesignation.

(b) Inactivity. A sponsor's designation shall automatically terminate for inactivity if the sponsor fails to comply with the minimum size or duration requirements, as specified in §514.8(a) and (b), in any twelve month period. Such sponsor may reapply for program designation.

(c) Failure to file annual reports. A sponsor's designation shall automatically terminate if the sponsor fails to file annual reports for two consecutive years. Such sponsor is eligible to reapply for program designation upon the filing of the past due annual reports.

(d) Change in ownership or control. An exchange visitor program designation is not assignable or transferable. A major change in ownership or control automatically terminates the designation. However, the successor sponsor may apply to the Agency for redesignation and may continue its exchange visitor activities while approval of the application for redesignation is pending before the Agency.

(1) With respect to a for-profit corporation, a major change in ownership shall be deemed to have occurred when thirty-three and one-third percent (33⅓%) or more of its stock is sold or otherwise transferred within a 12 month period;

(2) With respect to a not-for-profit corporation, a major change of control shall be deemed to have occurred when fifty-one percent or more of the board of trustees, or other like body vested with its management, is replaced within a 12-month period.

(e) Loss of licensure or accreditation. A sponsor's designation shall automatically terminate in the event that the sponsor fails to maintain accreditation. Such designation, including loss of accreditation or licensure.

(f) Failure to apply for redesignation. Prior to the conclusion of its current designation period, the sponsor is required to apply for redesignation pursuant to the terms and conditions of §514.7. Failure to apply for redesignation will result in the automatic termination of the sponsor's designation. If so terminated, the former sponsor may apply for a new designation, but the program activity will be suspended during the pendency of the application.

§514.61 Revocation.
A designation may be terminated by revocation for cause as specified in §514.50. A sponsor whose designation has been revoked may not apply for a new designation within a five-year period.

§514.62 Responsibilities of the sponsor upon termination or revocation.
Upon termination or revocation of its designation, the sponsor shall:
(a) Fulfill its responsibilities to all exchange visitors who are in the United States at the time of the termination or revocation;
(b) Notify exchange visitors who have not entered the United States that the program has been terminated unless a transfer to another designated program can be obtained; and
(c) Return all Forms IAP-66 in the sponsor's possession to the Agency within 30 days of program termination or revocation.

Subpart F Reserved
Subpart G Summer/Work Travel
§514.8 Summer Student Travel/Work Program.
(a) The following criteria apply to United States organizations which have been designated by the United States Information Agency (USIA) to administer Summer Student Travel/Work Programs. These programs are designed to achieve the educational objectives of international exchange by sponsoring students during their summer vacations directly in the daily life of the host country through temporary employment opportunities. The criteria require program sponsors to promote the exchange of United States and foreign students on a reciprocal basis thereby assuring that the operation of such programs will not have an adverse impact on labor opportunities for United States youth in the 18–23 year age bracket.

(1) Selection. The selection will be limited to bona fide university students screened for maturity and ability to get maximum benefit from Summer Travel/Work Programs. Priority consideration will be given to students who do not live in close proximity to the United States who would not be able to visit this country if temporary work permission were not authorized to help defray their travel expenses.

(2) Orientation. All students shall be provided with orientation, both pre-departure and upon arrival in the United States. The orientation should be designed to give the students a good basic knowledge of our country and its people. Students should be fully informed of the nature of the program in which they are participating. They should be provided with some type of identification card which includes the name and phone number of an official of the sponsoring organization as well as the number of the Exchange-Visitor Program in which they are participating. In addition, orientation should cover proper methods of obtaining and holding a job and the customary practices of giving employers adequate advance notice of resignation. Students should be fully briefed on the employment situation in the United States and advised not to seek employment in areas where a high unemployment situation exists.
(3) Supervision. Sponsors must be prepared to help their students at any time they have a medical, personal, employment, or other type of problem.

(4) Jobs. Each student sponsored on such a program must have a prearranged job before he or she comes to the United States, or firm appointments with prospective employers, or have sufficient personal funds so as to be financially independent if not employed.

(5) United States employment. Sponsors are required to check in advance with the Department of Labor to obtain information regarding areas or cities which have a high unemployment rate. Students should be advised to avoid such areas in seeking employment.

(6) Financial responsibility. Sponsors are required to ensure that all participants return home at no charge to the United States Government.

(7) Health and accident insurance. Sponsors shall ensure that every student has health and accident insurance coverage from the time of departure from home until the student returns to his or her home country. Minimum acceptable insurance is:

(i) Medical and accident coverage up to $2,000 per injury or illness; and

(ii) Preparation and transportation of remains to home country (at least $2,000). Coverage may be provided in one of the following ways:

(A) By health and accident coverage arranged for by the student.

(B) By health and accident insurance coverage arranged for by the sponsor.

(8) Geographical distribution. Sponsors shall develop plans to ensure that groups of students, especially those of the same nationality, are not "clustered" in certain areas or cities. Every effort should be made to have the students widely dispersed throughout the country.

(9) Arrival time. Students for whom the sponsors have arranged "preplacement" for jobs can begin their programs at any time. Travel for students who have not been "preplaced" should be delayed by the sponsors as late as possible, preferably after June 15. Such delayed travel will give American students who are interested in obtaining summer jobs from two to four weeks in a less competitive market.

(10) Reciprocity. Sponsors are required to administer Student Travel/Work Programs on a reciprocal basis. The number of foreign students a sponsor brings to the United States under this program shall not exceed, in any calendar year, the number of American students who were sent abroad by the sponsor on a Travel/Work Program. Should a sponsor fail in the realization of reciprocity in any given calendar year, the Agency may restrict the number of foreign students that the sponsor brings to the United States in the next calendar year to the number sent abroad by the sponsor in the preceding calendar year.

(11) Report requirement. Sponsors are required to submit an annual report, not later than January 31, on the United States students who were sent abroad the previous calendar year under Travel/Work Programs. The report should contain the following information: Name and United States address of the student, the country where the student was employed, name of employer and type of business, and the time and length of employment (status). The report should also include an ongoing evaluation of both the incoming program for foreign students and the outgoing program for American students. Major problems encountered in the administration of the program should also be listed. Failure to submit the report by January 31 will result in the automatic suspension of the program. The program will not be reactivated until the report is received by the United States Information Agency and the sponsor notified that suspension has been lifted.

(12) Unauthorized activities. Employment as servants, mother's helpers, au pair or other jobs of a domestic nature in private homes is not authorized. Employment must be of a commercial or industrial nature. Also, employment as a Camp Counselor is not authorized under the Travel/Work Program. All such unauthorized placements will be removed from the count of United States placements abroad which could reduce the number of foreign students which the sponsor will be permitted to bring into the United States during the following year. [Reserved]

Appendix A to Part 514—Certification of Responsible Officers and Sponsors

In accordance with the requirement at § 514.5(c)(6), the text of the certifications shall read as follows:

1. Responsible Officers and Alternate Responsible Officers

I hereby certify that I am the responsible officer (or alternate responsible officer, specify) for exchange visitor program number ______________________ and that I am a United States citizen or permanent resident. I understand that the United States Information Agency may request supporting documentation as to my citizenship or permanent residence at any time and that I must supply such documentation when and as requested. (Name of organization) agrees that my inability to substantiate the representation of citizenship or permanent residence made in this certification will result in the immediate withdrawal of its designation and the immediate return of or accounting for all Forms IAP–66 transferred to it.

Signed in ink by ______________________

(Name)

(Title)

Witness: ______________________

This _______ day of ______, 19__

Subscribed and sworn to before me this _______ day of ______, 19__.

Notary Public

Appendix B to Part 514—Exchange Visitor Program Services, Exchange-Visitor Program Application

Form Approved OMB

Serial No. ______________________

1. Name and Address of Sponsoring Organization

2. Name and Title of Responsible Officer

Telephone Number

3. Name and Title of Alternate Responsible Officer

Telephone Number

4. Type of Application (check one)

New App____ Re-Apply____ Re-Designation____

Section I—Program Participant Data (For Definition & Length of Stay See 22 CFR ______)

5. Participation by Category (indicate total no. and approximate duration of stay in each category)
Section II—Program Data

8. Outline of Proposed Activities (If training, see reverse)

9. Arrangements for Supervision and Direction

10. Purpose of Objective

11. Role of other Organizations Associated with Program (if any)

Section III—Certification

12. Citizenship Certification of Organization and Responsible Officer (see reverse)

13. I certify that information given in this application is true to the best of my knowledge and belief and that I have completed appropriate information on reverse of this form.

Signature of Responsible Officer

Date

Instructions for All Programs

If additional space is needed in supplying answers to any questions, please use continuation sheets on plain white paper.

1-3. Names and addresses of organization and telephone numbers.

4. Select type of application.

5. Select appropriate categories (see 22 CFR prior to filling out this data).

6-7. Complete information on program sponsor.

8-11. Complete information on program.

IF TRAINING PROGRAM, identify appropriate fields: 01—Arts & Culture; 02—Information Media and Communications; 03—Education; 04—Business and Commercial; 05—Banking and Financial; 06—Aviation; 07—Science, Mechanical and Industrial; 08—Construction and Building Trades; 09—Agricultural; 10—Public Administration; 11—Training, Other

Redesignation:

If your organization is making reapplication as an exchange visitor program, or applying for redesignation under 22 CFR, please certify to the following:

I hereby certify that as an officer of the organization making application for an exchange program under 22 CFR or 22 CFR that the following documents which have been submitted to the United States Information Agency, Exchange Visitor Program Services, remain in effect and not altered in any way:

1. Legal status as a corporation such as Articles of Incorporation and By.Laws.


3. Evidence of Licensure. Provide date, type of license, and state of licensure.

4. Authorization of governing body authorizing application. Please provide date of such authorization and authorizing body.

5. Activities in which the organization has been engaged have not changed since application dated:

6. Citizenship. Provide the date of compliance with citizenship requirements.

7. If citizenship compliance is not current, please complete the following:

Organization: I hereby certify that I am an officer of , with the title of ; that I am authorized by the (Board of Directors, Trustees, etc.) to sign this certification and bind ; and that a true copy certified by the (Board of Directors, Trustees, etc.) of such authorization is attached. I further certify that is a citizen of the United States as that term is defined at 22 CFR 514.1.

Responsible Officer or Alternate Responsible Officer: I hereby certify that I am the responsible officer (or alternate responsible officer) for , and that I am a citizen of the United States (or a person lawfully admitted to the United States for permanent residence). I agree that my inability to substantiate my citizenship or status as a permanent resident will result in the immediate withdrawal of its designation and immediate return of or accounting for all IAP-66 forms transferred to it.

Certification as to (1)-(6) Requirements:

I understand that false certification may subject me to criminal prosecution under 18 U.S.C. 1001, which reads: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact or makes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Signed in ink by (Name)

Title

Subscribed and sworn to before me this day of .

Notary Public

USIA Use Only

Type of program:

Subtype if applicable:

No. Forms IAP-66:

Categories:

Please return form to Exchange Visitor Program Services-RCV, United States Information Agency, Washington, DC 20547

Note: Public reporting burden for this collection of information (Paperwork Reduction Project: OMB No. 3116—0011) is estimated to average minutes/hours per response, including time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to USIA Clearance Officer, MA/EAP, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.
Federal Register / Vol. 58, No. 52 / Friday, March 19, 1993 / Rules and Regulations  15219


(a) STATISTICAL REPORT
(1) ACTIVITY BY CATEGORY

<table>
<thead>
<tr>
<th>Number</th>
<th>Professor</th>
<th>Research Scholar</th>
<th>Short-term Scholar</th>
<th>Trainee</th>
<th>Student (College and University)</th>
<th>Student (Practical Trainee)</th>
<th>Teacher</th>
<th>Student (Secondary)</th>
<th>Specialists</th>
<th>Physicians</th>
<th>International Visitors</th>
<th>Government Visitors</th>
<th>Camp Counselors</th>
</tr>
</thead>
</table>

(2) Forms IAP-66 Reconciliation
(i) Number of Forms IAP-66 issued and not used by participant
(ii) Number of Forms IAP-66 issued for dependents
(iii) Number of Forms IAP-66 issued on hand

(b) PROGRAM EVALUATION

On a separate sheet, please provide a narrative report on program activity, difficulties encountered and their resolution, program transfers, anticipated growth and the proposed new activity, cross-cultural activities, as well as the reciprocal component of the program.

1. The Responsible Officer of the program indicated above, certify that we have complied with the insurance requirement (22 CFR 514.14). I also certify that the information contained in this report is complete and correct to the best of my knowledge and belief.

   Responsible Officer  (signed)

   Name and address of sponsoring institution

Appendix E to Part 514—Unskilled Occupations

For purposes of 22 CFR 514.22(c), the following are considered to be "unskilled occupations":

(1) Assemblers
(2) Attendants, Parking Lot

(3) Attendants (Service Workers such as Personal Services Attendants, Amusement and Recreation Service Attendants)
(4) Automobile Service Station Attendants
(5) Bartenders
(6) Bookkeepers
(7) Caretakers
(8) Cashiers
(9) Charworkers and Cleaners
(10) Chauffeurs and Taxi Drivers
(11) Cleaners, Hotel and Motel
(12) Clerks, General
(13) Clerks, Hotel
(14) Clerks and Checkers, Grocery Stores
(15) Clerk Typist
(16) Cooks, Short Order
(17) Counter and Fountain Workers
(18) Dining Room Attendants
(19) Electric Truck Operators
(20) Elevator Operators
(21) Floorworkers
(22) Groundskippers
(23) Guards
(24) Helpers, any industry
(25) Hotel Cleaners
(26) Household Domestic Service Workers
(27) Housekeepers
(28) Janitors
(29) Key Punch Operators
(30) Kitchen Workers
(31) Laborers, Common
(32) Laborers, Farm
(33) Laborers, Mine
(34) Loopers and Toppers
(35) Material Handlers
(36) Nurses’ Aides and Orderlies
(37) Packers, Markers, Bottlers and Related
(38) Porters
(39) Receptionists
(40) Sailors and Deck Hands
(41) Sales Clerks, General
(42) Sewing Machine Operators and Handstitchers
(43) Stock Room and Warehouse Workers
(44) Streetcar and Bus Conductors
(45) Telephone Operators
(46) Truck Drivers and Tractor Drivers
(47) Typist, Lesser Skilled
(48) Ushers, Recreation and Amusement
(49) Yard Workers

Appendix F to Part 514—Comments on October 8, 1992 Federal Register Notice

(Note: This Appendix will not appear in the Code of Federal Regulations)

Comments on the October 8, 1992 Federal Register Notice were received from the following parties: Betsy Mikesell, Sarah L. Olbrich, Boy Scouts of America, National Office, The University of New Mexico, Merrimack Valley YMCA (2), Brandeis University (2), Xavier University, Virginia Polytechnic Institute, The University of Iowa (5), The University of Mississippi, Alan W. Boyd, Ohio State University, The Aloha Foundation, Fragomen, Del Rey & Bernson (on behalf of North American Institute of Aviation), University of New Orleans, Tulane University (4), Hendrix Health Center, Moorhead State University, University of the State of New York, Wichita State University, Oregon State University (3), American Secondary Schools for International Students and Teachers, Inc. (ASSIST), Northeastern University (2), Sanford Roesser, Rotary International, Youth Exchange Program District 5840, KDM Development Corp., Trenton State College (2), Augusta College, American Camping Association, New England Section, American Camping Association, Virginia Section, East-West Center, Center for Advanced Study in the Behavioral Sciences, American Immigration Lawyers Association (AILA), George Fox College, University of Miami, Study Associates International, Helicopter Adventures, Inc., Howe & Trowbridge, American Association of University Women Educational Foundation, AIESEC (enclosing a number of letters from members), St. Paul's School, Russell Reynolds Associates, Inc., Simpson College, Ronald N. Serota, CPA, The Fulbright Commission (The United States—United Kingdom Educational Commission), University of Minnesota (2), Colorado State University, Oklahoma State University, Eastern Michigan University, CDS International, Inc., Massachusetts Institute of Technology (2), Kentucky Rotary Youth International Exchange, Inc., Vanderbilt University, Donald J. Hester, The Graduate School and University Center of the City University of New York (2), University of Rochester, American Institute for Foreign Study, Pelican Express/Pelican Airways (2), The American-Scandinavian Foundation, University of Pittsburgh, Iowa State University of Science and Technology, Central College, The British Embassy, University of Wisconsin, Madison, Loyola University, The University of Illinois at Chicago (3), The University of Illinois at Urbana-Champaign, The University of Texas at Arlington, Massachusetts General Hospital (3), Rutgers—The State University of New Jersey (2), Salisbury School, Cornell University, North Carolina State University, Boston University, The City University of New York, Boston College.
Independent Insurance Agents of America
Montana State University
BUNACAMP (British Universities North America Club)
The Taft School
Lehman College, The City University of New York
San Diego State University
Indiana University—Purdue University at Indianapolis
Northern Arizona University
St. Andrew's School
The University of Texas at Austin
The International School of Brussels
The Rockefeller Foundation
University of Colorado
South Seas Plantation
Universities Research Associates, Inc.
University of Maine at Farmington
University of Houston
Abraham Baldwin Agricultural College
Milton-Union Exempted Village Schools
The Ritz-Carlton Hotel Company
Western Illinois University
Mrs. Carlyle F. Barnes
Rotary International Youth Exchange
Louisiana State University
William H. Connelly
AMIDEAST
Eastern States Student Exchange Program, Inc. (ESSEX)
Travel Insurance Services
Cape Cod Sea Camps
University of California, San Diego (3)
Association for International Practical Training (AIFT)
Council on International Educational Exchange
German Central Office for Job Placement
The Ohio State University (2)
Duke University
General Electric Technical Services Company, Inc.
Harvard University
University of Medicine & Dentistry of New Jersey
Timothy P. Fisher, Esq., P.C. (on behalf of ASSE International Student Exchange Programs, Inc.)
The University of Toledo (2)
YMCA International Program Services
EF Educational Foundation for Foreign Study
Mayo Foundation
Michigan State University
Antioch University
The School of the Art Institute of Chicago
Massachusetts College of Pharmacy & Allied Health Sciences
University of Wisconsin, Milwaukee
Stanford University
Texas Tech University
University of Michigan International Center
Purdue University
University of Pennsylvania
Louisiana State University and Agricultural and Mechanical College
Washington University
University of California, Davis (2)
Institute for Advanced Study, Princeton
Dawn Aeronautics, Inc.
The University of Chicago
Indiana University
The University of Alabama
The University of Texas Health Science Center at San Antonio
Spanish Heritage
International Flight Center, Inc.
The British Council
National Institutes of Health
Rotary Youth Exchange—Northern California, District 5160
The University of Tennessee—Knoxville
Sangamon State University
Luther College (2)
American Camping Association, Inc.
Fragomen, Del Rey & Bernsen, P.C. (on behalf of Manhattan Institute of Management)
Educational Commission for Foreign Medical Graduates
Yale University
Florida Atlantic University
Immigration and Naturalization Service
Girl Scouts of the United States of America
Sierra Academy of Aeronautics
Blue Cross—Blue Shield of Virginia
Blue Cross—Blue Shield Association
American Council on International Personnel
Little America Hotel
American Federation of Labor and Congress of Industrial Organizations

Jordan Schulte & Burchette (on behalf of the Ad Hoc Committee of Flight Training Schools for International Exchange)
Richard L. Fruchterman, Jr.
Association of American Medical Colleges
Association of American Universities
NAFSA—Association of International Educators
The Pennsylvania State University (2)
Merrill Black
The Maine Teen Camp (2)
Merry Lynn, Esq.
International Exchange Association/The Liaison Group for International Educational Exchange
University of Virginia
International Exchange Association
Fiorello H. LaGuardia Community College
The University of Georgia
Duquesne University
University of California, Berkeley
Killooleet
National Association of Independent Schools (NAIS)
University of Hawaii
New York University (2)
Carnegie Mellon University
University of Southern California, Los Angeles
Woodberry Forest School
Camp Winnebago
Southern Illinois University at Edwardsville
The City University of New York
Columbia University in the City of New York
Rotary International, District 5030 Youth Exchange Comm.
Texas A & M University
University of Kentucky

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