



**U.S. Department of State
Bureau of Educational and Cultural Affairs
Private Sector Exchange**

August 5, 2019

Guidance Directive 2019-03

College and University Student Category: Screening and Monitoring

As a result of the Department’s review of the College and University Student category, the Department wishes to remind sponsors of, and clarify, certain regulatory requirements in order to assist sponsors with the administration of exchange programs in the College and University Student category.

Selection of Exchange Visitors and English Language Proficiency

Exchange visitors should begin their exchange programs with English abilities that are adequate to participate successfully in their programs and function on a day-to-day basis, see 22 C.F.R. § 62.10(a)(2). The Department has observed, from outreach and site reviews, exchange visitors with noticeably poor English speaking skills, which may indicate a sponsor has not screened prospective candidates for English language proficiency consistent with 22 C.F.R. § 62.10(a)(2). Inadequate English skills may lead to program deficiencies and compromise the health, safety, and welfare of exchange visitors.

22 C.F.R. §62.23(i)(1)(i) provides additional clarification, noting that “In addition to satisfying the general requirements set forth in §62.10(a), a sponsor must ensure that the student intern has verifiable English language skills sufficient to function on a day-to-day basis in the internship environment. English language proficiency must be verified through a sponsor-conducted interview, by a recognized English language test, or by signed documentation from an academic institution or English language school.” In situations where a sponsor is specifically working with a third party and has a written agreement that includes participant screening, the sponsor is reminded that a “sponsor's use of a third party does not relieve the sponsor of its obligations to comply with and to ensure third party compliance with Exchange Visitor Program regulations. Any failure by any third party to comply with the

regulations set forth in this Part or with any additional terms and conditions governing Exchange Visitor Program administration that the Department may from time to time impose will be imputed to the sponsor,” (22 CFR 62.23(i)(4)).

Testing should ensure an objective measurement through a recognized English language test, by signed documentation from an academic institution or English language school, or through a documented interview conducted by the sponsor either in-person or by videoconferencing, or by telephone if videoconferencing is not a viable option.

English language tests are maintained as part of the exchange visitor’s file. Per 22 C.F.R. § 62.10(g), sponsors must retain all records related to their exchange visitor program and exchange visitors (to include accompanying spouse and dependents, if any) for a minimum of three years following the completion of each exchange visitor program.

Academic Training and Evaluation

The Department reminds sponsors that exchange visitors are primarily in the United States to study rather than engage in academic training as detailed in 22 C.F.R. § 62.23(f)(3)(i). The Department has observed that sponsors may not be conducting adequate monitoring activities pursuant to 22 C.F.R. § 62.23(f)(6). Sponsors must evaluate the effectiveness and appropriateness of academic training in achieving stated goals and objectives in order to ensure the quality of the academic training program.

Additional monitoring may also help sponsors make changes and/or recommendations regarding appropriate placement and the duties of the exchange visitors, as necessary, to ensure the quality of academic training. To maintain compliance with 22 C.F.R. § 62.23(f)(6), the Department does not require but recommends, as a best practice, that sponsors perform academic training site visits as part of their regular monitoring activities. This monitoring can assist sponsors in protecting the integrity of the academic training component of the College and University Student category by preventing placement of exchange visitors in inappropriate positions, which generally include unskilled occupations. Although it does not apply to the College and University Student category of the Exchange Visitor Program, sponsors may wish to refer to Appendix E to 22 C.F.R. Part 62

(Unskilled Occupations) for illustrative examples of positions the Department has deemed, in other contexts, to be unskilled placements.

Student Intern Screening and Selection

The Department has found that some J-1 college and university student interns have graduated from their respective universities abroad either before or during their exchange programs. The Department recommends that sponsors take an active role in screening and selecting future student interns to ensure that they are current students at their respective institutions abroad and will remain so during the entirety of their internship in the United States. In order to comply with 22 C.F.R. §§ 62.23(i) and 62.23(i)(1)(v), sponsors must ensure that all student interns are enrolled as students at a university outside of the United States.

Student Internship Form DS-7002 (Training/Internship Placement Plan)

To comply with 22 C.F.R. § 62.23(i)(2)(iii), sponsors should ensure that all student interns establish on their Forms DS-7002 (Training/Internship Placement Plan) a program to build upon their existing knowledge and skills.

Hospitality and Tourism Placements and Student Internship Form DS-7002

Exchange visitors participating in Hospitality and Tourism student internship programs should not perform the same functions throughout the internship. In order to comply with 22 C.F.R. § 62.23 (7)(ii) (B) the student internship program Training/Internship Placement Plan (Form DS-7002) must detail the knowledge, skills, or techniques to be imparted to the student intern (for each phase or component, if applicable); and per 22 C.F.R. § 62.23(i)(2)(iii), the student internship program is required to “expose(s) participants to American techniques, methodologies, and technology and expands upon the participants' existing knowledge and skills. A program must not duplicate the student intern's prior experience.” Hospitality and Tourism student internship programs of six months or longer must contain at least three departmental or functional rotations (22 C.F.R. § 62.23(i)(8)(v)), which should be outlined in the student intern’s Form DS-7002 (Training/Internship Placement Plan).

Host Organizations, Third Parties and Written Agreements

The Department notes that at times host organizations are closely involved in the screening, selection, and orientation of exchange visitors. Because of this close engagement, these host organizations should be considered “third parties” as defined in 22 C.F.R. § 62.2. In addition, 22 C.F.R. §§ 62.2 (Definitions: Third party) and 62.23(i)(4) require sponsors to enter into a written agreement with any entity that acts on behalf of the sponsor in the conduct of the sponsor's exchange visitor program. This includes any foreign-based entity involved in the selection, screening, placement, or orientation of exchange visitors. Sponsors should take measures to ensure third party compliance with all Exchange Visitor Program regulations applicable to their written agreement, with particular attention to recruitment and screening requirements at 22 C.F.R. §§ 62.10(a) and 62.23(c) when relevant to the agreement. Such measures may be reflected in agreements outlining the full relationship between sponsors and their third parties.

Host Organizations, Training and Awareness of Exchange Visitor Program Objectives

22 C.F.R. § 62.2 allows sponsors to contract with third parties to assist the sponsor in the conduct of its exchange visitor program. However, this provision states that the use of third parties does not absolve the sponsor of its responsibility to ensure third-party compliance with the Exchange Visitor Program regulations. For example, per 22 C.F.R. § 62.23(i)(3)(i)(B), sponsors must ensure that any host organization or other third party involved in the recruitment, selection, screening, placement, orientation, evaluation, or provision of a student internship program is sufficiently educated on the goals, objectives, and regulations of the Exchange Visitor Program and adheres to all regulations set forth in 62 C.F.R. Part 62, as well as all additional terms and conditions governing Exchange Visitor Program administration that the Department may from time to time impose.

The Department notes that some host organizations have stated that sponsors did not always make them aware of the objectives of the Exchange Visitor Program. Furthermore, host organizations have stated that they believed the objective of the program was to provide exchange visitors with work experience in the United States, not necessarily training or cultural exchange, which may indicate non-compliance with 22 C.F.R. § 62.9(d)(3).

To maintain compliance with 22 C.F.R. § 62.9(d)(3), sponsors should ensure that host organizations are provided with accurate program information and materials, with particular respect to the objectives of the Exchange Visitor Program and the nature and importance of the cultural components of the program. Thus, the Department does not require but recommends as a best practice, that sponsors engage with third parties that host exchange visitors by offering an introductory session to the Exchange Visitor Program. Sponsors should use these sessions to emphasize the distinction between work-based learning, which is permitted, and ordinary employment or unskilled labor, which is not, see 22 C.F.R. § 62.23(i)(7)(ii). Again, sponsors may wish to refer to Appendix E to 22 C.F.R. Part 62 (Unskilled Occupations) for illustrative examples of positions the Department has deemed, in other contexts, to be unskilled placements.

Updating SEVIS Records

The Department has found that sponsors do not always update exchange visitors' SEVIS records. Discrepancies in SEVIS location fields make it difficult for the Department and other U.S. government agencies to locate exchange visitors, if necessary, which may become a national security concern.

22 C.F.R. § 62.10(d)(4) requires sponsors to report in SEVIS within ten business days of notification by an exchange visitor any change in the exchange visitor's current physical U.S. address, telephone number, email address, and/or primary site of activity. Sponsors must update SEVIS with any new site of activity and physical U.S. address, whether the exchange visitor is a degree student, non-degree student, or student intern (including students participating in academic training). Sponsors must issue new Forms DS-2019 to exchange visitors when these changes are made. Failure to do so results in SEVIS errors and possible non-compliance with 22 C.F.R. §§ 62.10(d)(4) and 62.12(a)(3)(vii).

As required by 22 C.F.R. § 62.12(a)(3)(vii), sponsors should also update information when other significant changes take place in regard to an exchange visitor's program, including any substantial change in funding. Sponsors should verify all sources of program applicant funding are adequate in order for the exchange visitor to participate in and complete his/her program as indicated in 22 C.F.R. 62.12 (b)(1)(ii-iii). These funding sources must be in SEVIS and on exchange visitors' Forms DS-2019.

Other Relevant Guidance Directives

Guidance Directive 2018-01: College and University Student Category: Avoiding Unskilled Placements in Academic Training and Student Internship Programs (August 10, 2018) [2018-01 GD C-U Avoiding Unskilled Labor.pdf](#)

Training/Internship Placement Plan (T/IPP), Form DS-7002 (published June 22, 2015) <https://j1visa.state.gov/wp-content/uploads/2015/08/2015-03-SEVIS-TIPP-2015-Final.pdf>

Shorten, End and Terminate EV Programs (published April 22, 2015) <https://j1visa.state.gov/wp-content/uploads/2015/06/2015-01-Guidance-on-Sevis-Functions.pdf>

Sincerely,



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For Private Sector Exchange