



United States Department of State

*Bureau of Educational and Cultural Affairs  
Washington, D.C. 20547*

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May 24, 2007

Mr. Victor Johnson  
Associate Executive Director  
NAFSA  
1307 New York Avenue, N.W.  
8th Floor  
Washington, DC 20005-4701

Dear Mr. Johnson:

Unfortunately, I am writing to advise you that neither I nor my office staff will be able to attend the upcoming NAFSA conference in Minneapolis. In light of this change in circumstances at this late date, I take the liberty to provide an update on certain Exchange Visitor Program issues in lieu of our attendance. Please feel free to post this letter on the NAFSA webpage or otherwise distribute to your membership.

First, I am pleased to provide a chart as a reference tool for determining prospective eligibility for Professor and Research Scholar program participation. The chart details the 12- and 24-month bars on repeat participation.

We provided NAFSA with a draft version of this chart and have incorporated changes regarding J-2 dependents. A J-2 spouse or dependent is afforded such status on a derivative basis from the principal J-1 exchange visitor program participant. Given this derivative status, J-2 dependents will be subject to both the 12-month and 24-month bars. We appreciate NAFSA's comments on this matter. We are at this time of the opinion that no further regulatory amendment is necessary.

As stated in the Final Rule, "It is extremely important to note, however, that the five-year period is not, as suggested in some comments, an aggregate of five years. The Department considered this approach and found it unworkable. Instead, this will be a calendar year, five-year period afforded to a participant on a 'use or lose' basis which commences with the program begin date identified in SEVIS."

Completion of program activity is just that: If the exchange visitor is no longer actively participating in the Exchange Visitor Program as a Professor or Research Scholar participant then their program is completed. The status of the SEVIS records for exchange visitors who complete their program are necessarily listed as either "Inactive" or "Terminated," as appropriate. Countdown of the 12- and 24-month bars begins the day after the status of the exchange visitor's SEVIS record becomes "Inactive" or "Terminated."

#### **SEVIS Matters**

I am also pleased to advise you of a new SEVIS feature that will become available with the SEVIS 5.7 Release. This feature -- Message Board -- will enable both the Department of State (DoS) and the Department of Homeland Security (DHS) to broadcast messages to authorized SEVIS users based upon a user's SEVIS role (i.e., Responsible Officer; Alternate Responsible

Officer; Principal Designated School Official; Designated School Official). These Message Board messages will appear in the System when the authorized individual logs into SEVIS utilizing the Real Time Interactive (RTI) mode. A user will have the ability to view and/or print the messages. Message Board messages will contain a posting end date and will be automatically removed from the Message Board when the end date has been reached. SEVIS Batch users must log into the SEVIS Real Time Interactive (RTI) to access this new feature.

In response to requests from the university sponsor community, we are examining the possibility of providing an “out of country” function in SEVIS. If implemented, a sponsor can update a participant’s SEVIS record to reflect that an exchange visitor is actively participating in their exchange program on a collaborative research project at his home institution or elsewhere outside of the United States, retaining the Active status of the SEVIS record.

Until this enhancement is available in SEVIS, the following approach may be used to reflect the “out of country” status of a current Professor or Research Scholar participant in active program status:

- Create a new “Site of Activity” entering the sponsor’s name and U.S. (business) address.
- In the Site of Activity Remarks field, enter the following information:
  - “Out of Country” - anyone viewing the SEVIS record will know that the exchange visitor is still an active participant of the sponsor’s program but is actively pursuing their exchange visitor program activity outside of the United States.
  - Name of the institution (Out of Country Location Name) in which the exchange visitor will continue to pursue the program activity for which he/she was admitted to the United States; and,
  - The date range for which the exchange visitor is anticipated to be outside the United States (Out of Country Begin Date and Out of Country End Date).
  - When the exchange visitor returns to the United States and the sponsor, a new site of activity must be created.
  - The Primary Site button should be clicked to reflect the site of activity at which the exchange visitor is currently located. The Primary Site of Activity will then print on the exchange visitor’s Form DS-2019.

## **Regulatory Matters**

Trainee/Intern Regulations - The Department is planning to revise existing regulations set forth at 22 CFR Section 62.22 (Trainees). Planned changes will, among other things, eliminate the distinction between “non-specialty occupations” and “specialty occupations,” establish a new internship program, and modify the selection criteria for participation in a training program.

The Department is not proposing changes to existing flight training regulations.

College/University Students - Student Intern Regulations - The Department is also planning to revise its regulations set forth at 22 CFR 62.23. The proposed Rule, if adopted, will create a new subcategory of the College and University Student category - “Student Interns.” Participation in this new sub-category will be open to foreign students enrolled and pursuing full-time studies at a post-secondary educational institution outside the United States. Student interns may participate in a student internship program for up to 12 months at each degree level.

Sanction, Termination and Revocation Regulations - Revision to regulations set forth at 22 CFR Part 62 Subpart D (Sanctions) and 22 CFR Part 62 Subpart E (Termination and Revocation of Programs) are also planned. The revised Section 62.50 will retain many, but not all, of the provisions of the current regulations, and modifies the reasons for which sanctions may be imposed. One difference in the proposed regulation is the substitution of a panel of three Review

Officers to conduct a "paper review" in lieu of a trial-type hearing. This streamlined review process will continue to provide full procedural due process rights.

In Subpart E, Section 62.60 we will propose to amend existing regulations to provide for program termination in the case of failure to file an annual management audit, in program categories requiring such audits. A new section will provide for termination or denial of redesignation for an entire class of designated programs, if the Department determines that they compromise the national security of the United States, or no longer further the public diplomacy mission of the Department.

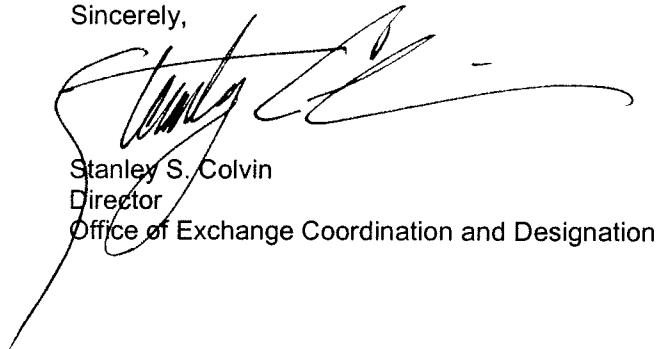
Exchange Visitor Program Fees - Finally, the Department will soon propose revision of regulations set forth at 22 CFR Part 62, Subpart H – "Fees", Section 62.90. This Subpart and section will be repealed and a new section (Section 62.17 "Fees and Charges") which will consolidate all fees and charges for Exchange Visitor Program services will be adopted. Eventually, these fees will permit the Department to recoup the full cost of Exchange Visitor Program services attributable to private sector and academic exchange visitor programs.

Working together, NAFSA and the Department have done much to improve the Exchange Visitor Program. Speaking on behalf of the Department, we look forward to finding new ways to make this important relationship even stronger in the coming years.

Best wishes for a successful Conference.

With kind regards, I remain,

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley S. Colvin", is written over a large, stylized flourish that extends across the signature area.

Stanley S. Colvin  
Director  
Office of Exchange Coordination and Designation

Enclosures:

1. Twelve and Twenty-Four Bars Chart
2. Unclassified ALDAC Cable State 03175 dated March 13, 2007
3. 9 FAM 41.62 Exchange Visitors, N11.4 Two-Year Restriction for Professor and Research Scholar Category

## Twelve and Twenty-Four Month Bars on Repeat Participation for J-1 Exchange Visitor Categories of Research Scholar and Professor

Previous J-1 Exchange Visitor (EV) Status	Length of Stay in the United States in Previous J-1 Visa Status*	Date Exchange Visitor Completed Program**	Can begin or return as Professor or Research Scholar
Any EV (J-1) category <u>other</u> than Professor/ Research Scholar	6 months or less	Any date	Immediately
Any EV (J-1) category <u>other</u> than Professor/ Research Scholar	More than 6 months	Any date	After 12 months from the EV's Program End Date or Effective Date of Completion **
Research Scholar/ Professor (J-1)	6 months or less	Prior to 11/18/2006	Immediately
Research Scholar/ Professor (J-1)	6 months or less	After 11/18/2006	After 24 months from the EV's Program End Date or Effective Date of Completion **
Research Scholar/ Professor (J-1)	More than 6 months	Prior to 11/18/2006	After 12 months from the EV's Program End Date or Effective Date of Completion **
Research Scholar/ Professor (J-1)	Any time (i.e., 1 month, 1 year, etc.)	After 11/18/2006	After 24 months from the EV's Program End Date or Effective Date of Completion **
Spouse/dependent (J-2) of any EV category <b>other</b> than Research Scholar/ Professor (J-1)	6 months or less	Any date	Immediately
Spouse/dependent (J-2) of any EV category <b>other</b> than Research Scholar/ Professor (J-1)	More than 6 months	Any date	After 12 months from the EV's Program End Date or Effective Date of Completion **
Spouse/dependent (J-2) of a Research Scholar/ Professor (J-1)	6 months or less	Prior to 11/18/2006	Immediately
Spouse/dependent (J-2) of a Research Scholar/ Professor (J-1)	More than 6 months	Prior to 11/18/2006	After 12 months from the EV's Program End Date or Effective Date of Completion **
Spouse/dependent (J-2) of a Research Scholar/ Professor (J-1)	Any time (i.e., 1 month, 1 year, etc.)	After 11/18/2006	After 24 months from the EV's Program End Date or Effective Date of Completion **

\* The duration of the bars is determined by the actual *length of stay* of the principal J-1 exchange visitor's (EV) most recent participation in an exchange visitor program as a Professor or Research Scholar.

\*\* The Department of State has determined that *completion of program* is defined as EVs who are no longer actively participating in the activities of a Professor or Research Scholar. The status of the SEVIS records for EVs who meet this definition should be listed as either "Inactive" or "Terminated" (as appropriate). Countdown of the bars begins the day after the status of the EV's SEVIS record becomes "Inactive" or "Terminated."

**Note 1:** The two-year bar on repeat participation (22 CFR 62.20(n)) applies to J-1 Professors and Research Scholar participants "who have completed his or her program."

**Note 2:** Repeat participation. Exchange participants who have entered the United States under the Exchange Visitor Program as a professor or research scholar, or who have acquired such status while in the United States, and who have *completed his or her program* are not eligible for participation as a professor or research scholar for a period of two years following the end date of such program participation as identified in SEVIS. Refer to 22 CFR 62.20(n) of the May 19, 2005 publication in the *Federal Register*.

**Note 3:** November 18, 2006 is the effective date of the 5-year program duration for the Professor and Research Scholar categories (as published in the *Federal Register* on May 19, 2005 (22 CFR 62.20; DOCID: FR19MY05-13). The effective date was determined by the implementation of the regulations in SEVIS (Release 5.4). Refer to the Final Rule published in the *Federal Register* by the Department of State dated January 11, 2007.

**Note 4:** J-2 status is derivative of the status of the J-1 principal.