

# Exchange Visitor Program Questions and Answers

ISS RP Exchange Visitor Subcommittee

October 15, 2020



# Question



Aside from EVPs regulatory agenda, what are the top priorities and initiatives for EVP over the next year? How can sponsors help with existing initiatives?

## Question

Last Fall, the Department was forming a ‘working group’ to address questions about clinical activities and animal patient contact for J categories other than alien physician and student interns. Can you provide any updates from this group?

## Question

In February, ECA began inviting EVs to participate in the International Exchange Alumni program. Can you provide an update on the program? How many EVs are participating? What are the benefits for joining? How can sponsors help promote or engage with their EVP alumni?

## Question

There have been many communications from EVP over the last year, coming from different units in the department. Some messages have been directed to ROs and some to all ROs and AROs. Finally, some messages seem to have not reached any RO or ARO. Could you specify which e-mail addresses that academic programs may receive and what type of messages would only go to the RO?

# Question



What should programs do if they are not receiving some or any messages from ECA?

## Question

22 CFR 62.43(c) provides EVP the discretion to authorize an extension of certain J categories beyond the maximum duration of certain J-1 categories, providing that the responsible officer can adequately document the reasons which justify the extension. But outside of the challenges of the COVID crisis, could you please elaborate on other possible compelling reasons and documentation that may justify an extension beyond the maximum duration?

Also, will you provide some examples of successful requests?

## Question

In a follow up to the previous question, does EVP have any plans or means to expand those J categories for whom Sponsors are permitted to submit requests for extension beyond maximum duration of participation?



## Question

22 CFR 62.41 authorizes the DoS discretion to permit an EV to change their J category provided that the change remains clearly consistent with and closely related to the participant's original exchange objective, and necessary due to unusual or exceptional circumstances.

During the recent crisis, many J-1 EVs in the Research Scholar or Short-term Scholar categories and admitted to US graduate programs have been impeded from changing status by travel bans and lack of flights. Could you please discuss the elements of a successful Research Scholar to Student change of category request?

## Question

22 CFR 62.23(g)(1)(iii) allows for J-1 student employment that occurs off-campus, which is necessary because of serious, urgent, and unforeseen economic circumstances that have arisen since acquiring exchange visitor status. During this current economic downturn, ROs will likely be asked to approve more of this type of employment. What evidence should the sponsor collect to document their reasons for authorizing this type of employment?

# Question

For Sponsors who are unable to maintain at least 5 EVs a year (22 CFR 62.8(a)) under the current crisis, how should the Sponsor request a waiver of the requirement? What documentation would be most compelling in consideration of the request? Finally, what would be an appropriate time to ask for a waiver? Should it be requested in the Annual Report?

## Question

Under 22 CFR 62.8(c), "Sponsors must make a good faith effort to develop and implement, to the fullest extent possible, reciprocal exchanges of persons" in the conduct of their exchange visitor program.

Traditionally, sponsors have offered their study abroad student numbers as evidence for reciprocity under their Annual Report. However, with the curtailment of most university study abroad programs over the next year, it is likely that very few U.S. students will travel abroad. How should we discuss reciprocity in our Annual Reports during a period of limited international mobility?

## Question

22 CFR 62.14 requires that EVs possess health insurance coverage and specifies the coverage and amounts required. During the crisis, many J-1 insurance plans did not cover COVID related illness. In addition from the coverage amounts listed under 22 CFR 62.14, does ECA have any other recommendations concerning insurance coverage during this epidemic?

## Question

22 CFR 62.12(e)(2) prohibits sponsors and their agents from forwarding electronic copies of form DS-2019 to anyone except DoS and DHS. The DoS EVP Information on Coronavirus FAQ page affirms this rule. Still, the discussion seems to provide more discretion to sponsors, allowing them to send electronic DS-2019 copies to EVs.

There are many mundane administrative reasons why an EV may need to show updated program information outside of formal processing such as extending grant awards, I-9 compliance, etc. Can you elaborate more on what constitutes formal processing and what does not?

## Question

Will you provide us with some insight into current EVP regulatory initiatives? Are there any updates to the final Subpart A regulations? While we've seen a proposed change to 212e waiver standards and procedures in the URA for several years, we still don't have much information on the proposed rule's substance. Should we expect this rule shortly and can you provide any details on the rule?

## Question

The current Unified Agenda of Regulatory and Deregulatory Actions (Agenda) lists a proposal to modify “Duration of Status” for F, M and J visa holders to a “date-certain” admissions scheme. As you know, the J-1 Research Scholar and Students categories allow sponsors to determine duration and extension of programs within the regulatory limits. Students and Research Scholars frequently have multiple program extensions over their careers based on their academic and research progress. In an era of little travel mobility and USCIS I-539 processing times of 6 to 18 months, “date-certain” admissions for Students and Research Scholars would seriously damage the EVP and render it effectively unworkable or at least far less useful.

Can you elaborate on EVPs discussions with DHS regarding date-certain admissions for EVs? Can you describe how date-certain admission would be applied to Students and Research Scholars? Has the Dept. of State seen the same overstay rates for EVs that DHS claims to have for F and M visa holders?



## Question

While we understand 9 FAM 402.5-6(L)(3) bars sponsors from extending the program after a 212e waiver is approved, can you discuss what, if any, impact reentering the U.S. may have on an earlier approved 212(e) waiver? And what, if any, impact applying for a J-1 visa to continue a J program may have on an earlier approved 212(e) waiver?

## Question

DOS has referred EVs to USCIS to request a Change of Status if they are unable to extend their J program but unable to return home due to COVID-19. In cases where the EV is subject to 212(e) and therefore ineligible to change status, sponsors are concerned that petitions could be considered a ‘frivolous.’”

Since the consequences of a denial could be severe for the EV, can you confirm that USCIS is willing to consider change of status option for EVs subject to 212(e)? Also, would you please share any advice about what to include with the change of status application to document the EVs eligibility?