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Title 22: Foreign Relations

PART 62—EXCHANGE VISITOR PROGRAM

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Subpart A—General Provisions

§62.1 Purpose.

(a) The regulations set forth in this part implement the Mutual Educational and Cultural Exchange Act of 1961 (the “Act”), as amended, Public Law 87-256, 22 U.S.C. 2451, *et seq.* (1988). The purpose of the Act is to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. Educational and cultural exchanges assist the Department of State in furthering the foreign policy objectives of the United States. These exchanges are defined by section 102 of the Act, 22 U.S.C. 2452, and section 101(a)(15)(J) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(J).

(b) The Secretary of State of the Department of State facilitates activities specified in the Act, in part, by designating public and private entities to act as sponsors of the Exchange Visitor Program. Sponsors may act independently or with the assistance of third parties. The purpose of the Program is to provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries. Exchange visitors enter the United States on a J visa. The regulations set forth in this subpart are applicable to all sponsors.

(c) The Assistant Secretary for Educational and Cultural Affairs of the Department of State may, in his or her sole discretion and to the extent consistent with the authorities described in paragraph (a) of this section and other applicable law, waive or modify any provision of this part with respect to programs that are established pursuant to memoranda of understanding, letters of intent or similar arrangements between the United States and foreign governments. When establishing such a program, the Department will publish a notice in the FEDERAL REGISTER describing the program and any resulting modifications to or waivers of provisions of this part. If such an arrangement will not result in a waiver of or other modification to the provisions of this part, then the Department need not publish a notice.

[79 FR 60307, Oct. 6, 2014]

§62.2 Definitions.

The following definitions apply to this part:

Academic institution. Any publicly or privately operated primary, secondary, or post-secondary institution in the United States or abroad that offers primarily academic programs. For the purpose of these regulations, an institution that offers primarily vocational or technical programs is not an academic institution unless the specific program or programs in which the exchange visitor is to participate or has participated has been determined by the U.S. Department of State on an exceptional basis to be comparable to those offered in academic institutions.

Accompanying spouse and dependents. The alien spouse and/or minor unmarried child(ren), if any, of an exchange visitor who are accompanying or following to join the exchange visitor and who seek to enter or have entered the United States temporarily on non-immigrant J-2 visas or seek to acquire or have acquired such status after admission. For the purpose of these regulations, a minor is a person under the age of 21 years old.

Accredited academic institution. Any academic institution that is duly accredited by the appropriate academic accrediting authority of the U.S. jurisdiction in which such institution is located. In addition, all post-secondary institutions also must be accredited by a nationally recognized accrediting agency or association as recognized by the Secretary of Education.

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

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

Alternate Responsible Officer. An employee or officer of a sponsor who has been nominated by the sponsor and approved by the Department of State to assist the Responsible Officer in carrying out the responsibilities outlined in §62.11. An Alternate Responsible Officer must be a United States person.

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

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

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

Country of nationality or last legal permanent residence. Either the country of which the exchange visitor is a national at the time status as an exchange visitor is 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. An activity designed to promote exposure and interchange between exchange visitors and Americans so as to increase their mutual understanding of each other's society, culture, and institutions.

Department of State. The U.S. Department of State.

Designation. The written authorization issued by the Department of State to an exchange visitor program applicant to conduct an exchange visitor program as a sponsor. The term includes the written authorization issued to a current sponsor that applies to continue its designation (*i.e.*, redesignation).

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

Exchange visitor. 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 non-immigrant J-1 visa or who has obtained J status in the United States based on a Form DS-2019 issued by the sponsor. The term does not include the accompanying spouse and dependents of the exchange visitor.

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

Exchange visitor's government. The government of the exchange visitor's country of nationality or last legal permanent residence.

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

Form DS-2019, A Certificate of Eligibility for Exchange Visitor (J-Nonimmigrant) Status. A controlled document of the Department of State that a sponsor issues to a potential Exchange Visitor Program participant (J-1) and his or her accompanying spouse and dependents (J-2) as permitted by regulations. This form, together with other necessary Department of State documents, permits the named foreign national, if required, to schedule an interview at a U.S. embassy or consulate to seek to obtain a J visa to enter the United States as an Exchange Visitor Program participant or as an accompanying spouse and dependent.

Form DS-3036, Exchange Visitor Program Application. A controlled document of the Department of State that an organization uses to apply to become a designated sponsor of the Exchange Visitor Program and that a designated sponsor uses to request redesignation or amendment of an existing exchange visitor program.

Form DS-3037, Update of Information on a Sponsor's Exchange Visitor Program. A controlled document of the Department of State that a sponsor uses to update information on its exchange visitor programs in SEVIS.

Form DS-3097, Annual Report. A controlled document of the Department of State in which a sponsor reports program activity and evaluation on a yearly basis.

Form DS-7002, Training/Internship Placement Plan (T/IPP). A controlled document of the Department of State used in connection only with a Trainee or Intern under 22 CFR §62.22, or a Student Intern under §62.23 respectively, to outline an exchange visitor's program activities.

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

- (1) Secondary school students must satisfy the attendance and course requirements of the state in which the school they attend is located; and
- (2) College and university students must register for and complete a full course of study, as defined by the accredited academic institution in which the student is registered, unless exempted in accordance with §62.23(e).

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

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

who has been granted status in H or L non-immigrant classification as a temporary worker or trainee or an intracompany transferee.

Host organization. A third party in the United States that conducts training and/or internship programs on behalf of a designated sponsor pursuant to an executed written agreement between the two parties.

Internship program. A structured and guided work-based learning program for an Intern as set forth in an individualized Training/Internship Placement Plan (Form DS-7002) that reinforces an intern's academic study; recognizes the need for work-based experience; provides on-the-job exposure to American techniques, methodologies, and technologies; and enhances the Intern's knowledge of American culture and society.

J visa. A non-immigrant visa issued pursuant to 8 U.S.C. 1101(a)(15)(J). A J-1 visa is issued to an exchange visitor. A J-2 visa is issued to the exchange visitor's accompanying spouse and dependents, if qualified under §214b of the Immigration and Nationality Act, as amended.

Management review. A program-specific management audit in a format approved by the Department of State that is conducted by an independent auditor who is not an employee or third party contractor of the sponsor, to identify weaknesses in operating procedures in the conduct of an organization's business and in meeting regulatory requirements in the administration of a sponsor's exchange visitor program.

Office of Designation. The Department of State, Bureau of Educational and Cultural Affairs office assigned to administer designations of sponsors.

Office of Exchange Coordination and Compliance. The Department of State, Bureau of Educational and Cultural Affairs office assigned to oversee sponsor compliance with 22 CFR part 62 and, as appropriate, impose sanctions.

Office of Private Sector Exchange Administration. The Department of State, Bureau of Educational and Cultural Affairs office assigned to monitor administration of each sponsor's exchange visitor program.

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

Reciprocity. The participation of a U.S. citizen or U.S. national 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" will be interpreted broadly; unless otherwise specified, reciprocity does not require a one-for-one exchange or that exchange visitors be engaged in the same activity.

Responsible Officer. An employee or officer of a sponsor who has been nominated by the sponsor, and approved by the Department of State, to carry out the duties outlined in §62.11. A Responsible Officer must be a citizen of the United States or a lawful permanent resident of the United States.

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

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

Site of activity. The physical, geographic location(s) where an exchange visitor participates in his or her exchange program.

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

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

Student internship program. A structured and guided work-based learning program for a post-secondary student intern as set forth in an individualized Training/Internship Placement Plan (Form DS-7002) that partially or fully fulfills a student's post-secondary academic degree requirements; recognizes the need for work-based experience; provides on-the-job exposure to American techniques, methodologies, and technologies; and enhances the student intern's knowledge of American culture and society.

Third party. A person or legal entity with whom a sponsor has executed a written agreement for the person or entity to act on behalf of a sponsor in the conduct of the sponsor's exchange visitor program. All entities that act on behalf of the sponsor in the conduct of the sponsor's exchange visitor program must execute written agreements with the sponsor that outline the full relationship between the entity and the sponsor on all matters involving the administration of the exchange visitor program. A sponsor's use of a third party does not relieve the sponsor of its obligations to comply, and to ensure third party compliance, with the provisions of this part. Failure by any third party to comply with the regulations set forth in this part or with any additional terms and conditions governing administration of the Exchange Visitor Program that the Department of State may from time to time impose will be imputed to the sponsor. Sponsors are required to ensure that third parties know and comply with all applicable provisions of these regulations.

Training program. A structured and guided work-based learning program for a trainee as set forth in an individualized Training/Internship Placement Plan (Form DS-7002), that develops new and advanced skills in a trainee's occupational field through exposure to American techniques, methodologies, and technologies; and enhances a trainee's understanding of American culture and society.

United States person (individual). A person who is born within or is a national of the United States or any of its territories or outlying possessions. A U.S. person is a citizen or an individual who has been lawfully admitted for permanent residence, within the meaning of section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101).

United States Person (legal entity).

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

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

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

(2) A for-profit corporation, association, or other legal entity created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or outlying possession of the United States, whose principal place of business is located in the United States, and

(i) Whose shares or voting interests are publicly traded on a U.S. stock exchange; or

(ii) A majority of whose officers, a majority of whose shareholders, and a majority of whose members of its Board of Directors are United States persons and collectively hold a majority of the shares or stock (*i.e.*, the *de jure* controlling interest); or

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

(i) Whose principal place of business is located in the United States; and

(ii) A majority of whose officers and a majority of whose members of its Board of Directors, Board of Trustees or other like body vested with its management are United States persons; or

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

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

Validation. The process by which a Responsible Officer or Alternate Responsible Officer updates the SEVIS record of an exchange visitor to show he or she has entered the United States, and that the exchange visitor reported to his or her sponsor and is participating in the exchange visitor program at the site of activity identified on his or her Form DS-2019.

[79 FR 60307, Oct. 6, 2014]

§62.3 Sponsor eligibility.

(a) The following types of entities are eligible to apply for designation as a sponsor of an exchange visitor program:

(1) U.S. local, state, and federal government agencies to include the District of Columbia; and government agencies of any U.S. territories and outlying possessions;

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

(3) Reputable organizations that are United States Persons.

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

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

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

(3) Demonstrate that the organization or its proposed Responsible Officer has no fewer than three years' experience in international exchange.

[79 FR 60307, Oct. 6, 2014]

§62.4 Categories of participant eligibility.

Sponsors select foreign nationals to participate in exchange visitor program(s) in the United States. Participation is limited to foreign nationals who meet the following criteria for each of the following categories:

(a) *Student*. A foreign national who is:

(1) Studying in the United States and:

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

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

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

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

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

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

(3) Engaged in English language training at:

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

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

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

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

(c) *Trainee*. A foreign national participating in a structured and guided work-based training program in his or her specific occupational field (in an occupational category for which a sponsor has obtained designation) who has either:

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

(2) Five years of work experience in his or her occupational field acquired outside the United States.

(d) *Teacher*. A foreign national with the equivalent of a U.S. Bachelor's degree in either education or the subject matter (or related subjects) he or she intends to teach and a minimum of the equivalent of two years of post-degree full-time teaching experience, who is employed as a teacher at the time of application for the program, for the purpose of teaching full-time in a primary or secondary accredited academic institution.

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

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

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

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

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

(2) *International visitor*. A foreign national who is a recognized or potential leader, selected by the Department of State for the purpose of consulting, observing, conducting research, training, or demonstrating special skills in the United States.

(3) *Government visitor*. A foreign national who is an influential or distinguished person, selected by a U.S. federal, state, or local government agency for the purpose of consulting, observing, training, or demonstrating special skills in the United States.

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

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

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

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

(i) Is currently enrolled full-time in and actively pursuing studies at a foreign ministerially-recognized degree- or certificate-granting post-secondary academic institution outside the United States, or

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

[79 FR 60307, Oct. 6, 2014]

§62.5 Designation application procedure.

(a) An entity meeting the eligibility requirements set forth in §62.3 may apply to the Department of State for designation as an Exchange Visitor Program sponsor. An applicant must first complete and submit Form DS-3036 in SEVIS. The complete application must consist of:

(1) A completed copy of Form DS-3036 signed by the applicant's Chief Executive Officer, President, or other executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents);

(2) Required supporting documentation and certifications as set forth in paragraph (c); and

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

(b) A complete application must set forth, in detail, the applicant's proposed exchange program activity and must demonstrate, to the Department of State's satisfaction, the applicant's ability to comply and remain in continual compliance with all the provisions of this part, and, in particular, to meet the sponsor eligibility requirements set forth in §62.3 and the general obligations of sponsors set forth in §62.9.

(c) An application must be accompanied by the following supporting documentation and certifications, as relevant:

(1) Evidence of sponsor eligibility as set forth in §62.3(a), including evidence of legal status (e.g., charter, proof of incorporation, by laws, partnership agreement);

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

(3) Evidence of the applicant's ability to meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange visitor program, and evidence that it can comply with §62.9(e) and provide any supplemental or explanatory financial information the Department of State may request. In addition:

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

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

(4) A current Certificate of Good Standing (see §62.2);

(5) An Employer Identification Number (EIN), which specifies the date of issuance;

(6) Evidence of current accreditation if the applicant is a secondary or post-secondary academic institution;

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

(8) A statement signed by the Chief Executive Officer, President, or other executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents), certifying that:

(i) The applicant is a United States Person as defined in §62.2;

(ii) The proposed Responsible Officer and all proposed Alternate Responsible Officers are United States citizens or lawful permanent residents of the United States;

(iii) The sponsor has completed a criminal background check on the potential Responsible Officer and all Alternate Responsible Officers, and has determined their suitability for these positions; the criminal background checks must be no older than four years at any time for re-designated sponsors and must be newly conducted as part of the designation application for new sponsors and the redesignation application for sponsors designated for only one year; and

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

(9) A completed SEVIS-generated Citizenship Certification for the proposed Responsible Officer and all proposed Alternate Responsible Officer(s) along with evidence that they are citizens of the United States or lawful permanent residents (e.g., copy of passport, birth certificate, green card); and

(10) Such additional information or documentation that the Department of State may deem necessary to evaluate the application. In addition, the Department may decide, in its discretion, to conduct a pre-designation site visit of a first-time applicant.

[79 FR 60307, Oct. 6, 2014]

§62.6 Designation.

(a) Upon its favorable determination that an applicant meets all statutory and regulatory requirements, the Department of State may, in its sole discretion, designate the applicant as an Exchange Visitor Program sponsor.

(b) Initial designations are effective for one or two years at the sole discretion of the Department of State.

(c) Designation will confer upon a sponsor the authority to engage in one or more activities specified in §62.4. A sponsor may engage only in the activity or activities specifically authorized in its written letter of designation.

(d) The Department of State may, in its sole discretion, require a sponsor to secure a payment bond in favor of the Department of State guaranteeing the sponsor's obligations hereunder.

(e) Designations are not transferable or assignable.

[79 FR 60307, Oct. 6, 2014]

§62.7 Redesignation.

(a) Sponsors must file for redesignation no more than six months and no fewer than three months before the designation expiration date as set forth in the sponsor's letter of designation or its most recent letter of redesignation.

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

(1) A completed copy of Form DS-3036, signed by the sponsor's Chief Financial Officer, President or other executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents);

(2) Required supporting documentation and certifications as set forth in paragraph (c); and

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

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

(1) A copy of the most recent year-end financial statements;

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

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

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

(5) A statement signed by the Chief Executive Officer, President, or other executive with legal authority to make commitments on behalf of the sponsor (as identified in the organization's governing documents) certifying that the sponsor has completed timely criminal background checks since the date of the last designation or redesignation letter on the Responsible Officer and all Alternate Responsible Officers and has determined their suitability for these positions; and

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

(d) Upon its favorable determination that a sponsor meets all statutory and regulatory requirements, the Department of State may, in its sole discretion, redesignate the organization as an Exchange Visitor Program sponsor for one or two years. A sponsor seeking re-designation may continue to operate its program(s) until such time as the Department of State notifies it of a decision to approve, amend or terminate its designation.

[79 FR 60307, Oct. 6, 2014]

§62.8 General program requirements.

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

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

(c) *Reciprocity.* In conducting its exchange visitor program, sponsors must make a good faith effort to develop and implement, to the fullest extent possible, reciprocal exchanges of persons.

(d) *Cross-cultural activities.* In addition to category specific requirements, sponsors must:

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

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

[79 FR 60307, Oct. 6, 2014]

§62.9 General obligations of sponsors.

(a) *Adherence to Department of State regulations.* Sponsors are required to adhere to all regulations set forth in this part.

(b) *Legal status.* A sponsor must maintain the legal status it had when it was designated. A sponsor's change in legal status (e.g., from partnership to corporation, non-profit to for-profit) requires the submission of a new application for designation of the successor legal entity within 45 days of the change in legal status.

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

(d) *Representations and disclosures.* Sponsors must:

(1) Provide accurate, complete, and timely information, to the extent lawfully permitted, to the Department of State and the Department of Homeland Security regarding their exchange visitor program(s), exchange visitors, and accompanying spouses and dependents (if any);

(2) Provide accurate information to the public when advertising their exchange visitor program(s) or responding to public inquiries;

(3) Provide accurate program information and materials to prospective exchange visitors, host organizations, and host employers, if applicable, at the time of recruitment and before exchange visitors enter into agreements and/or pay non-refundable fees. This information must clearly explain program activities and terms and conditions of program, including the terms and conditions of any employment activities (job duties, number of work hours, wages and compensation, and any typical deductions for housing and transportation), have itemized list of all fees charged to the exchange visitor (*i.e.*, fees paid to the sponsor or a third party, including the host employer), insurance costs, other typical costs, conditions, and restrictions of the exchange visitor program(s), and the type, duration, nature and importance of the cultural components of the program. Program recruitment information and materials also must make clear to prospective exchange visitors in the exchange categories with a work

component that their stipend or wages might not cover all of their expenses and that they should bring additional personal funds.

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

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

(e) *Financial responsibility.* (1) Sponsors must maintain the financial capability to meet at all times their financial obligations and responsibilities attendant to successful sponsorship of their exchange visitor program.

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

(3) The Department of State may require a non-government sponsor to secure payment bonds in favor of the Department of State guaranteeing all financial obligations arising from its exchange visitor program when the Department has reasonable doubt about the sponsor's ability to meet its program and other financial obligations.

(f) *Staffing and support services.* Sponsors must ensure that:

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

(2) Their employees, officers, agents, third parties, volunteers or other individuals or entities associated with the administration of their exchange visitor program are adequately qualified, appropriately trained, and comply with the Exchange Visitor Program regulations and immigration laws pertaining to the administration of their exchange visitor program(s).

(g) *Appointment of Responsible Officers and Alternate Responsible Officers.* (1) Sponsors must appoint and maintain a Responsible Officer and between one and ten Alternate Responsible Officers to assist the Responsible Officer in performing the duties set forth in §62.11. Upon written sponsor request, the Department of State may, in its sole discretion, permit a sponsor to appoint more than ten Alternate Responsible Officers. A sponsor redesignated for two years must ensure that the proposed Responsible Officer and Alternate Responsible Officer(s) have undergone a criminal background check within the past four years to determine their suitability for these positions. Responsible Officers and Alternate Responsible Officers must be U.S. persons.

(2) Responsible Officers and Alternate Responsible Officers must be employees or officers of the sponsor. Upon written sponsor request, the Department of State may, in its sole discretion, authorize the appointment of an individual who is not an employee or officer to serve as an Alternate Responsible Officer.

(3) In the event of the departure of a Responsible Officer or Alternate Responsible Officer, the sponsor must file a request in SEVIS for the approval of a replacement and forward the required

documentation to the Department of State within ten calendar days from the date of the Responsible Officer's or Alternate Responsible Officer's departure.

(4) Requests to replace the Responsible Officer or add an Alternate Responsible Officer must be submitted in SEVIS, and a signed Form DS-3037 must be either mailed or emailed to the Department of State with the required completed Citizenship Certification, along with certification that the individual has undergone a criminal background check conducted at the time of such Certification.

(5) The Department of State reserves the right to deny the appointment of a Responsible Officer or an Alternate Responsible Officer.

[79 FR 60307, Oct. 6, 2014]

§62.10 Program administration.

Sponsors are responsible for the effective administration of their exchange visitor program(s). These responsibilities include:

(a) *Selection of exchange visitors.* Sponsors must establish and utilize a method 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, as determined by an objective measurement of English language proficiency, successfully to participate in his or her program and to function on a day-to-day basis. A sponsor must verify an applicant's English language proficiency 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.

(b) *Pre-arrival information.* At the pre-arrival stage, sponsors must provide exchange visitors clear information and materials on, but not limited to, the following topics: Program activities, cultural goals and components of the program, employment information and terms and conditions of employment (including employer name and address, position duration, job duties, number of work hours, wages, other compensation and benefits, deductions from wages, including those taken for housing and transportation), insurance costs, and other conditions and restrictions of their exchange visitor. In addition, sponsors must provide clear information and materials on:

(1) The purpose of the Exchange Visitor Program;

(2) The home-country physical presence requirement;

(3) Travel to and entry into the United States (e.g., procedures to be followed by exchange visitors and accompanying spouses and dependents in paying SEVIS fees and obtaining visas for entry to the United States, including the information and documentation needed for the interview; travel arrangements to the United States, and what to expect at the port of entry, including the necessity of having and presenting travel documents at the port of entry);

(4) Housing, including specific information on what housing is provided by the program or otherwise available and the expected cost to the exchange visitor;

(5) An itemized list of all fees to be paid by a potential exchange visitor (*i.e.*, fees paid to the sponsor or a third party);

(6) Description and amount of other costs that the exchange visitor will likely incur (e.g., insurance, living expenses, transportation expenses) while in the United States;

(7) Health care and insurance description, costs, and requirements for exchange visitors and their accompanying spouse and dependents, as applicable;

(8) Arrival notification requirements (e.g., procedures that exchange visitors, spouses and dependents are to follow upon entry into the United States in reporting their arrival to the sponsor and reporting to the location of their program); and

(9) Other information that will assist exchange visitors to prepare for their stay in the United States (e.g., how and when to apply for a social security number, if applicable; how to apply for a driver's license; how to open a bank account; employee rights and laws, including workman's compensation; and how to remain in lawful non-immigrant status.

(c) *Orientation.* A sponsor must offer and record participation in an appropriate orientation for all exchange visitors. Sponsors are encouraged to provide orientation for the exchange visitor's accompanying spouse and dependents, especially for those exchange visitors who are expected to be in the United States for more than one year. Orientation must include, but is not limited to, information concerning:

(1) Life and customs in the United States;

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

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

(4) A description of the exchange visitor program in which the exchange visitor is participating such as information on the length and location of the program; a summary of the significant components of the program; information on any payment (*i.e.*, stipend or wage) an exchange visitor will receive; and deductions from wages, including for housing and transportation;

(5) Sponsor rules that exchange visitors are required to follow while participating in their exchange visitor program;

(6) Name and address of the sponsor and the name, email address, and telephone number of the Responsible Officer and Alternate Responsible Officer(s);

(7) The Office of Designation's address, telephone number, facsimile number, Web site and email address, and a copy of the Exchange Visitor Program brochure or other Department of State materials as appropriate or required;

(8) Wilberforce Pamphlet on the Rights and Protections for Temporary Workers; and

(9) The requirement that an exchange visitor must report to the sponsor or sponsor designee within ten calendar days any changes in his or her telephone number, email address, actual and current U.S. address (*i.e.*, physical residence), and site of activity (if the exchange visitor is permitted to make such change without prior sponsor authorization).

(d) *Monitoring of exchange visitors.* Exchange visitors' participation in their exchange program must be monitored by employees of the sponsor. Monitoring activities must not include any retaliation or discrimination against exchange visitors who make adverse comments related to the program. No sponsor or employee of a sponsor may threaten program termination, remove from the program, ban from the program, adversely annotate an exchange visitor's SEVIS record, or otherwise retaliate against an exchange visitor solely because he/she has filed a complaint; instituted or caused to be instituted any proceeding; testified or is about to testify; consulted with an advocacy organization, community

organization, legal assistance program or attorney about a grievance or other work-related legal matter; or exercised or asserted on behalf of himself/herself any right or protection. Sponsors must:

(1) Ensure that the activities in which exchange visitors are engaged are consistent with the category and activity listed on their Forms DS-2019;

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

(3) Require that exchange visitors report to the sponsor within ten calendar days any changes in their telephone numbers, email addresses, actual and current U.S. addresses (*i.e.*, physical residence), and site(s) of activity (if the exchange visitor is permitted to make such change without prior sponsor authorization);

(4) Report in SEVIS within ten business days of notification by an exchange visitor any change in the exchange visitor's actual and current U.S. address, telephone number, email address, and/or primary site of activity; and

(5) Report the email address for each accompanying spouse and dependent.

(e) *Requests by the Department of State.* Sponsors must, to the extent lawfully permitted, furnish the Department of State within the Department-requested timeframe all information, reports, documents, books, files, and other records or information requested by the Department of State on all matters related to their exchange visitor program. Sponsors must include sponsor's program number on all responses.

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

(g) *Retention of records.* 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.

[79 FR 60307, Oct. 6, 2014]

§62.11 Duties of Responsible Officers and Alternate Responsible Officers.

Responsible Officers must train and supervise Alternate Responsible Officers and ensure that these officials are in compliance with the Exchange Visitor Program regulations. Responsible Officers and Alternate Responsible Officers must:

(a) Be thoroughly familiar with the Exchange Visitor Program regulations, relevant immigration laws, and all federal and state regulations and laws pertaining to the administration of their exchange visitor program(s), including the Department of State's and the Department of Homeland Security's policies, manuals, instructions, and guidance on SEVIS and all other operations relevant to the Exchange Visitor Program; if Responsible Officers and Alternate Responsible Officers work with programs with an employment component, they also must have a detailed knowledge of federal, state, and local laws pertaining to employment, including the Fair Labor Standards Act;

(b) Monitor that the exchange visitor obtains sufficient advice and assistance to facilitate the successful completion of his or her exchange visitor program;

(c) Conduct all official communications relating to their sponsor's exchange visitor program with the Department of State and the Department of Homeland Security. A sponsor must include its exchange visitor program number on all correspondence submitted to the Department of State and to the Department of Homeland Security;

(d) Monitor to ensure that that sponsor spam filters do not block receipt of SEVIS or Department of State and Department of Homeland Security notices; and

(e) Control and issue Forms DS-2019 as set forth in §62.12.

[79 FR 60307, Oct. 6, 2014]

§62.12 Control of Forms DS-2019.

(a) *Issuance of Forms DS-2019.* Sponsors must:

(1) Grant access only to Responsible Officers and Alternate Responsible Officers and ensure that they have access to and use SEVIS to update required information;

(2) Ensure that Responsible Officers and Alternate Responsible Officers input into SEVIS accurate, current, and updated information in accordance with these regulations; and

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

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

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

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

(iv) To replace lost, stolen, or damaged Forms DS-2019;

(v) To facilitate the re-entry into the United States of an exchange visitor and accompanying spouse and dependents, if any, who travel outside the United States during the exchange visitor's program;

(vi) To facilitate a change of category, when requested in SEVIS and authorized by the Department of State;

(vii) To update information when significant changes take place in regard to the exchange visitor's program (e.g., a substantial change in funding, a change in the primary site of activity or a change in actual and current U.S. address);

(viii) To facilitate the correction of a minor or technical infraction; or

(ix) To facilitate a "reinstatement" or a "reinstatement update SEVIS status" when permitted by the Department of State.

(b) *Verification.* (1) Prior to issuing Forms DS-2019, sponsors must verify that each prospective exchange visitor:

(i) Is eligible and qualified for, and accepted into, the program in which he or she will participate;

(ii) Possesses adequate financial resources to participate in and complete his or her exchange visitor program; and

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

(2) Sponsors must ensure that:

(i) Only Responsible Officers or Alternate Responsible Officers who are physically present in the United States or in a U.S. territory may print and sign Forms DS-2019; and

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

(c) *Distribution of Forms DS-2019.* Sponsors must ensure that completed Forms DS-2019 are distributed directly to the exchange visitor and accompanying spouse and dependents, if any, or to an individual designated by the exchange visitor only via the sponsor's employees, officers, or third parties in the administration of its exchange visitor program.

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

(2) Expansion of Program. A request for program expansion must include information such as, but not limited to, the source of program growth, staff increases, confirmation of adequately trained employees, noted programmatic successes, current financial information, additional overseas affiliates, additional third party entities, explanations of how the sponsor will accommodate the anticipated program growth, and any other information requested by the Department. The Department of State will take into consideration the current size of a sponsor's program and the projected expansion of the program in the coming 12 months and may consult with the Responsible Officer and/or Alternate Responsible Officer prior to determining the number of Forms DS-2019 to issue to a sponsor.

(e) *Safeguards and controls.* (1) Responsible Officers and Alternate Responsible Officers must secure their SEVIS logon Identification Numbers (IDs) and passwords at all times (*i.e.*, not share IDs and passwords with any other person or permit access to and use of SEVIS by any other person).

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

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

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

[79 FR 60307, Oct. 6, 2014]

§62.13 Notification requirements.

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

(1) Validation of program participation. Sponsors must promptly validate an exchange visitor's participation in their program. This will change the status of the exchange visitor's SEVIS record from "Initial" to "Active." SEVIS records with program durations (e.g., the period between the "Program Begin Date" and "Program End Date") of 30 days or more must be validated within 30 days following the "Program Begin Date" identified in SEVIS. SEVIS records with program durations that are less than 30 days must be validated prior to the "Program End Date" reflected in SEVIS. As part of the validation

process, sponsors may amend the program begin date and must update the SEVIS record to reflect the actual and current U.S. address and site of activity in SEVIS. The status of SEVIS records that are not validated according to this schedule will automatically change to “Invalid” or “No Show”. Accompanying spouses and dependents' SEVIS records are automatically validated upon validation of the exchange visitors' SEVIS records.

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

(3) End of an exchange visitor's program. Sponsors must report in SEVIS any withdrawal from or early completion of an exchange visitor's program that occurs prior to the “Program End Date” listed in SEVIS on the exchange visitor's Form DS-2019. Sponsors must not alter the “Program End Date” field, but should enter the date of program completion in the “Effective Date of Completion” field. This will change the status of the exchange visitor's SEVIS record from “Active” to “Inactive.” Such notification in SEVIS ends a sponsor's programmatic obligations to the exchange visitor and/or his or her accompanying spouse and dependents.

(4) Accompanying spouse and dependent records. Sponsors must report in SEVIS if accompanying spouses and/or dependents depart from the United States prior to the exchange visitors' departure dates.

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

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

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

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

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

(2) Change in site of activity. Sponsors must report in SEVIS any change to an exchange visitor's site of activity by entering the new site within ten business days of notification of such a change where sponsor rules or regulations permit such a change. Sponsors must promptly enter any change in the site of activity in those instances where the sponsor is responsible for the placement. Sponsors must identify the “primary” site of activity of an exchange visitor if multiple sites of activity are reported in SEVIS.

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

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

(2) Change in the composition of the sponsor organization that affects its status as a United States Person as defined in §62.2, which includes a new Employment Identification Number (EIN);

(3) Change of Responsible Officer or Alternate Responsible Officer;

(4) Major change of ownership or control of the sponsor's organization as defined in §62.60(e);

(5) Change of the sponsor's principal place of business to a location outside the United States;

(6) Change in financial circumstances that may render the sponsor unable to comply with its obligations as set forth in §62.9(e);

(7) Loss of licensure or accreditation;

(8) Loss or theft of Forms DS-2019, in which case a sponsor must notify the Department of State promptly by telephone or email of the SEVIS identification numbers of such Forms DS-2019 that have been lost or stolen;

(9) A decision by the sponsor to voluntarily cancel (withdraw) its exchange visitor program designation; or

(10) Any other material facts or events that may have an impact on the sponsor's ability to properly administer or conduct its exchange visitor program.

(d) *Serious problem or controversy.* Sponsors must inform the Department of State on or before the next business day by telephone (confirmed promptly in writing by facsimile or email) of any investigations of an exchange visitor's site of activity or serious problem or controversy that could be expected to bring the Department of State, the Exchange Visitor Program, or the sponsor's exchange visitor program into notoriety or disrepute, including any potential litigation related to a sponsor's exchange visitor program, in which the sponsor or an exchange visitor may be a named party.

[79 FR 60307, Oct. 6, 2014]

§62.14 Insurance.

(a) Sponsors must require that all exchange visitors have insurance in effect that covers the exchange visitors for sickness or accidents during the period of time that they participate in the sponsor's exchange visitor program. In addition, sponsors must require that accompanying spouses and dependents of exchange visitors have insurance for sickness and accidents. Sponsors must inform all exchange visitors that they, and any accompanying spouse and dependent(s), also may be subject to the requirements of the Affordable Care Act.

(b) The period of required coverage is the actual duration of the exchange visitor's participation in the sponsor's exchange visitor program as recorded in SEVIS in the "Program Begin Date," and as applicable, the "Program End Date," "Effective Program End Date," or "Effective Date of Termination" fields. Sponsors are not authorized to charge fees to their sponsored exchange visitors for the provision of insurance coverage beyond any demonstrable and justifiable staff time. Sponsors are not required to, but may, offer supplemental "entry to exit" coverage (*i.e.*, coverage from the time the exchange visitor departs his or her home country until he or she returns). If the sponsor provides health insurance, or

arranges for health insurance to be offered the exchange visitor, via payroll deduction at the host organization, the exchange visitor must voluntarily authorize this action in writing and also be given the opportunity to make other arrangements to obtain insurance. These authorizations must be kept on file by the sponsor. Minimum coverage must provide:

(1) Medical benefits of at least \$100,000 per accident or illness;

(2) Repatriation of remains in the amount of \$25,000;

(3) Expenses associated with the medical evacuation of exchange visitors to his or her home country in the amount of \$50,000; and

(4) Deductibles not to exceed \$500 per accident or illness.

(c) Insurance policies secured to fulfill the requirements of this section:

(1) May require a waiting period for pre-existing conditions that is reasonable as determined by current industry standards;

(2) May include provisions 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) Must not unreasonably exclude coverage for perils inherent to the activities of the exchange program in which the exchange visitor participates.

(d) Any policy, plan, or contract secured to fill the above requirements must, at a minimum, be:

(1) Underwritten by an insurance corporation having an A.M. Best rating of "A-" or above; a McGraw Hill Financial/Standard & Poor's Claims-paying Ability rating of "A-" or above; a Weiss Research, Inc. rating of "B + " or above; a Fitch Ratings, Inc. rating of "A-" or above; a Moody's Investor Services rating of "A3" or above; or such other rating as the Department of State may from time to time specify; or

(2) Backed by the full faith and credit of the government of the exchange visitor's home country; or

(3) Part of a health benefits program offered on a group basis to employees or enrolled students by a designated sponsor; or

(4) Offered through or underwritten by a federally qualified Health Maintenance Organization or eligible Competitive Medical Plan as determined by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

(e) Federal, state or local government agencies; state colleges and universities; and public community colleges may, if permitted by law, self-insure any or all of the above-required insurance coverage.

(f) At the request of a non-governmental sponsor of an exchange visitor program, and upon a showing that such sponsor has funds readily available and under its control sufficient to meet the requirements of this section, the Department of State may permit the sponsor to self-insure or to accept full financial responsibility for such requirements.

(g) The Department of State may, in its sole discretion, condition its approval of self-insurance or the acceptance of full financial responsibility by the non-governmental sponsor by requiring such sponsor to secure a payment bond in favor of the Department of State guaranteeing the sponsor's obligations hereunder.

(h) Accompanying spouses and dependents are required to be covered by insurance in the amounts set forth in paragraph (b) of this section. Sponsors must inform exchange visitors of this requirement, in writing, in advance of the exchange visitor's arrival in the United States.

(i) Exchange visitors who willfully fail to maintain the insurance coverage set forth above while a participant in an exchange visitor program or who make material misrepresentations to the sponsor concerning such coverage will be deemed to be in violation of these regulations and will be subject to termination as an exchange visitor.

(j) Sponsors must terminate an exchange visitor's participation in their program if the sponsor determines that the exchange visitor or any accompanying spouse or dependent willfully fails to remain in compliance with this section.

[79 FR 60307, Oct. 6, 2014]

§62.15 Reporting requirements.

(a) Sponsors must submit annual reports to the Department of State that are generated through SEVIS on Form DS-3097. Such reports must be filed on an academic, calendar, or fiscal year basis, as directed by the Department of State in the sponsor's letter of designation or redesignation, and must contain the following:

(1) *Program report and evaluation.* A summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness, program difficulties, and number of staff used in the administration of the exchange visitor program;

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

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

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

(5) *Certification.* The following certification:

"I certify that the information in this report is complete and correct to the best of my knowledge and belief; and, that the above named program sponsor has complied with all health and accident insurance requirements for exchange visitors and their accompanying spouses and dependents (22 CFR 62.14)."

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

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

(iii) For exchange visitor programs classified as P-3 and P-4 "Private Sector Programs," this certification will be signed by the organization's Chief Executive Officer or Responsible Officer.

(6) *Program participation.* A numerical count of all exchange visitors participating in the sponsor's program for the reporting year (*i.e.*, by category, form usage, active status at one point during the annual cycle, and by other status).

(b) Sponsors of P-3 and P-4 "Private Sector" programs must file a program specific management review (in a format and on a schedule approved by the Department of State).

[79 FR 60307, Oct. 6, 2014]

§62.16 Employment.

(a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee, such as the host organization, when employment 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 the accompanying spouse and dependents of an exchange visitor is governed by Department of Homeland Security regulations.

[79 FR 60307, Oct. 6, 2014]

§62.17 Fees and charges.

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

(b) *Amounts of fees.* The following fees are prescribed.

(1) For filing an application for program designation and/or redesignation (Form DS-3036)—\$3,982.00.

(2) For filing an application for exchange visitor status changes (*i.e.*, extension beyond the maximum duration, change of category, reinstatement, reinstatement-update SEVIS status, ECFMG sponsorship authorization, and permission to issue)—\$367.00.

[78 FR 28139, May 14, 2013]

§62.25 Secondary school students.

(a) *Purpose.* This section governs Department of State designated exchange visitor programs under which foreign secondary school students are afforded the opportunity to study in the United States at accredited public or private secondary schools for an academic semester or an academic year, while living with American host families or residing at accredited U.S. boarding schools.

(b) *Program sponsor eligibility.* Eligibility for designation as a secondary school student exchange visitor program sponsor is limited to organizations:

(1) With tax-exempt status as conferred by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code; and

(2) Which are United States citizens as such term is defined in §62.2.

(c) *Program eligibility.* Secondary school student exchange visitor programs designated by the Department of State must:

(1) Require all exchange students to be enrolled and participating in a full course of study at an accredited academic institution;

(2) Allow entry of exchange students for not less than one academic semester (or quarter equivalency) and not more than two academic semesters (or quarter equivalency) duration; and

(3) Ensure that the program is conducted on a U.S. academic calendar year basis, except for students from countries whose academic year is opposite that of the United States. Exchange students

may begin an exchange program in the second semester of a U.S. academic year only if specifically permitted to do so, in writing, by the school in which the exchange student is enrolled. In all cases, sponsors must notify both the host family and school prior to the exchange student's arrival in the United States whether the placement is for an academic semester, an academic year, or a calendar year.

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

(1) Are adequately trained. Sponsors must administer training for local coordinators that specifically includes, at a minimum, instruction in: Conflict resolution; procedures for handling and reporting emergency situations; awareness or knowledge of child safety standards; information on sexual conduct codes; procedures for handling and reporting allegations of sexual misconduct or any other allegations of abuse or neglect; and the criteria to be used to screen potential host families and exercise good judgment when identifying what constitutes suitable host family placements. In addition to their own training, sponsors must ensure that all local coordinators complete the Department of State mandated training module prior to their appointment as a local coordinator or assumption of duties. The Department of State training module will include instruction designed to provide a comprehensive understanding of the Exchange Visitor Program; its public diplomacy objectives; and the Secondary School Student category rules and regulations. Sponsors must demonstrate the individual's successful completion of all initial training requirements and that annual refresher training is also successfully completed.

(2) Are adequately supervised. Sponsors must create and implement organization-specific standard operating procedures for the supervision of local coordinators designed to prevent or deter fraud, abuse, or misconduct in the performance of the duties of these employees/agents/volunteers. They must also have sufficient internal controls to ensure that such employees/agents/volunteers comply with such standard operating procedures.

(3) Have been vetted annually through a criminal background check (which must include a search of the Department of Justice's National Sex Offender Public Registry);

(4) Place no exchange student with his or her relatives;

(5) Make no exchange student placement beyond 120 miles of the home of the local coordinator authorized to act on the sponsor's behalf in both routine and emergency matters arising from that exchange student's participation in the Exchange Visitor Program;

(6) Make no monetary payments or other incentives to host families;

(7) Provide exchange students with reasonable access to their natural parents and family by telephone and e-mail;

(8) Make certain that the exchange student's government issued documents (*i.e.*, passports, Forms DS-2019) are not removed from his/her possession;

(9) Conduct the host family orientation after the host family has been fully vetted and accepted;

(10) Refrain, without exception, from acting as:

(i) Both a host family and a local coordinator or area supervisor for an exchange student;

(ii) A host family for one sponsor and a local coordinator for another sponsor; or

(iii) A local coordinator for any exchange student over whom he/she has a position of trust or authority such as the student's teacher or principal. This requirement is not applicable to a boarding school placement.

(11) Maintain, at minimum, a monthly schedule of personal contact with the exchange student. The first monthly contact between the local coordinator and the exchange student must be in person. All other contacts may take place in-person, on the phone, or via electronic mail and must be properly documented. The sponsor is responsible for ensuring that issues raised through such contacts are promptly and appropriately addressed.

(12) That a sponsor representative other than the local coordinator who recruited, screened and selected the host family visit the exchange student/host family home within the first or second month following the student's placement in the home.

(13) Maintain, at a minimum, a monthly schedule of personal contact with the host family. At least once during the fall semester and at least once during the spring semester, (*i.e.*, twice during the academic year) the contact by the local coordinator with the host family must be in person. All other contacts may take place in person, on the phone, or via electronic mail and must be properly documented. The sponsor is responsible for ensuring the issues raised through such contacts are promptly and appropriately addressed.

(14) That host schools are provided contact information for the local organizational representative (including name, direct phone number, and e-mail address), the program sponsor, and the Department's Office of Designation; and

(15) Adhere to all regulatory provisions set forth in this part and all additional terms and conditions governing program administration that the Department may impose.

(e) *Student selection.* In addition to satisfying the requirements of §62.10(a), sponsors must ensure that all participants in a designated secondary school student exchange visitor program:

(1) Are secondary school students in their home countries who have not completed more than 11 years of primary and secondary study, exclusive of kindergarten; or are at least 15 years of age, but not more than 18 years and six months of age as of the program start date;

(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 or attended school in the United States in either F-1 or J-1 visa status.

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

(i) Be secured from the school principal or other authorized school administrator of the school or school system that the exchange student will attend; and

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

(2) Under no circumstance may a sponsor facilitate the entry into the United States of an exchange student for whom a written school placement has not been secured.

(3) Under no circumstance may a sponsor charge a student private school tuition if such arrangements are not finalized in writing prior to the issuance of Form DS-2019.

(4) Sponsors must maintain copies of all written acceptances for a minimum of three years and make such documents available for Department of State inspection upon request.

(5) Sponsors must provide the school with a translated "written English language summary" of the exchange student's complete academic course work prior to commencement of school, in addition to

any additional documents the school may require. Sponsors must inform the prospective host school of any student who has completed secondary school in his/her home country.

(6) Sponsors may not facilitate the enrollment of more than five exchange students in one school unless the school itself has requested, in writing, the placement of more than five students from the sponsor.

(7) Upon issuance of a Form DS-2019 to a prospective participant, the sponsor accepts full responsibility for securing a school and host family placement for the student, except in cases of voluntary student withdrawal or visa denial.

(g) *Student orientation.* In addition to the orientation requirements set forth at §62.10, all sponsors must provide exchange students, prior to their departure from their home countries, with the following information:

(1) A summary of all operating procedures, rules, and regulations governing student participation in the exchange visitor program along with a detailed summary of travel arrangements;

(2) A copy of the Department's welcome letter to exchange students;

(3) Age and language appropriate information on how to identify and report sexual abuse or exploitation;

(4) A detailed profile of the host family with whom the exchange student will be placed. The profile must state whether the host family is either a permanent placement or a temporary-arrival family;

(5) A detailed profile of the school and community in which the exchange student will be placed. The profile must state whether the student will pay tuition; and

(6) An identification card, that lists the exchange student's name, United States host family placement address and telephone numbers (landline and cellular), sponsor name and main office and emergency telephone numbers, name and telephone numbers (landline and cellular) of the local coordinator and area representative, the telephone number of Department's Office of Designation, and the Secondary School Student program toll free emergency telephone number. The identification card must also contain the name of the health insurance provider and policy number. Such cards must be corrected, reprinted, and reissued to the student if changes in contact information occur due to a change in the student's placement.

(h) *Student extra-curricular activities.* Exchange 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; and

(2) Authorized by the state authority responsible for determination of athletic eligibility, if applicable. Sponsors shall not knowingly be party to a placement (inclusive of direct placements) based on athletic abilities, whether initiated by a student, a natural or host family, a school, or any other interested party.

(3) Any placement in which either the student or the sending organization in the foreign country is party to an arrangement with any other party, including receiving school personnel, whereby the student will attend a particular school or live with a particular host family must be reported to the particular school and the National Federation of State High School Associations prior to the first day of classes.

(i) *Student employment.* Exchange 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 application and selection.* Sponsors must adequately screen and select all potential host families and at a minimum must:

(1) Provide potential host families with a detailed summary of the Exchange Visitor Program and of their requirements, obligations and commitment to host;

(2) Utilize a standard application form developed by the sponsor that includes, at a minimum, all data fields provided in Appendix F, "Information to be Collected on Secondary School Student Host Family Applications". The form must include a statement stating that: "The income data collected will be used solely for the purposes of determining that the basic needs of the exchange student can be met, including three quality meals and transportation to and from school activities." Such application form must be signed and dated at the time of application by all potential host family applicants. The host family application must be designed to provide a detailed summary and profile of the host family, the physical home environment (to include photographs of the host family home's exterior and grounds, kitchen, student's bedroom, bathroom, and family or living room), family composition, and community environment. Exchange students are not permitted to reside with their relatives.

(3) Conduct an in-person interview with all family members residing in the home where the student will be living;

(4) Ensure that the host family is capable of providing a comfortable and nurturing home environment and that the home is clean and sanitary; that the exchange student's bedroom contains a separate bed for the student that is neither convertible nor inflatable in nature; and that the student has adequate storage space for clothes and personal belongings, reasonable access to bathroom facilities, study space if not otherwise available in the house and reasonable, unimpeded access to the outside of the house in the event of a fire or similar emergency. An exchange student may share a bedroom, but with no more than one other individual of the same sex.

(5) Ensure that the host family has a good reputation and character by securing two personal references from within the community from individuals who are not relatives of the potential host family or representatives of the sponsor (*i.e.*, field staff or volunteers), 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 is not receiving needs-based government subsidies for food or housing;

(7) Verify that each member of the host family household 18 years of age and older, as well as any new adult member added to the household, or any member of the host family household who will turn eighteen years of age during the exchange student's stay in that household, has undergone a criminal background check (which must include a search of the Department of Justice's National Sex Offender Public Registry);

(8) Maintain a record of all documentation on a student's exchange program, including but not limited to application forms, background checks, evaluations, and interviews, for all selected host families for a period of three years following program completion; and

(9) Ensure that a potential single adult host parent without a child in the home undergoes a secondary level review by an organizational representative other than the individual who recruited and selected the applicant. Such secondary review should include demonstrated evidence of the individual's friends or family who can provide an additional support network for the exchange student and evidence of the individual's ties to his/her community. Both the exchange student and his or her natural parents must agree in writing in advance of the student's placement with a single adult host parent without a child in the home.

(k) *Host family orientation.* In addition to the orientation requirements set forth in §62.10, sponsors must:

(1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange visitor program, including examples of "best practices" developed by the exchange community;

(2) Provide all selected host families with a copy of the Department's letter of appreciation to host families;

(3) Provide all selected host families with a copy of Department of State-promulgated Exchange Visitor Program regulations;

(4) Advise all selected host families of strategies for cross-cultural interaction and conduct workshops to familiarize host families with cultural differences and practices; and

(5) Advise host families of their responsibility to inform the sponsor of any and all material changes in the status of the host family or student, including, but not limited to, changes in address, finances, employment and criminal arrests.

(l) *Host family placement.* (1) Sponsors must secure, prior to the student's departure from his or her home country, a permanent or arrival host family placement for each exchange student participant. Sponsors may not:

(i) Facilitate the entry into the United States of an exchange student for whom a host family placement has not been secured;

(ii) Place more than one exchange student with a host family without the express prior written consent of the host family, the natural parents, and the students being placed. Under no circumstance may more than two exchange students be placed with a host family, or in the home of a local coordinator, regional coordinator, or volunteer. Sponsors may not place students from the same countries or with the same native languages in a single home.

(2) Prior to the student's departure from his or her home country, sponsors must advise both the exchange student and host family, in writing, of the respective family compositions and backgrounds of each, whether the host family placement is a permanent or arrival placement, and facilitate and encourage the exchange of correspondence between the two.

(3) In the event of unforeseen circumstances that necessitate a change of host family placement, the sponsor must document the reason(s) necessitating such change and provide the Department of State with an annual statistical summary reflecting the number and reason(s) for such change in host family placement in the program's annual report.

(m) *Advertising and marketing for the recruitment of host families.* In addition to the requirements set forth in §62.9 in advertising and promoting for host family recruiting, sponsors must:

(1) Utilize only promotional materials that professionally, ethically, and accurately reflect the sponsor's purposes, activities, and sponsorship;

(2) Not publicize the need for host families via any public media with announcements, notices, advertisements, etc. that are not sufficiently in advance of the exchange student's arrival, appeal to public pity or guilt, imply in any way that an exchange student will be denied participation if a host family is not found immediately, or identify photos of individual exchange students and include an appeal for an immediate family;

(3) Not promote or recruit for their programs in any way that compromises the privacy, safety or security of participants, families, or schools. Specifically, sponsors shall not include personal student data or contact information (including addresses, phone numbers or email addresses) or photographs of the student on Web sites or in other promotional materials; and

(4) Ensure that access to exchange student photographs and personally identifying information, either online or in print form, is only made available to potential host families who have been fully vetted and selected for program participation. Such information, if available online, must also be password protected.

(n) *Reporting requirements.* Along with the annual report required by regulations set forth at §62.15, sponsors must file with the Department of State the following information:

(1) Sponsors must immediately report to the Department any incident or allegation involving the actual or alleged sexual exploitation or any other allegations of abuse or neglect of an exchange student. Sponsors must also report such allegations as required by local or state statute or regulation. Failure to report such incidents to the Department and, as required by state law or regulation, to local law enforcement authorities shall be grounds for the suspension and revocation of the sponsor's Exchange Visitor Program designation;

(2) A report of all final academic year and semester program participant placements by August 31 for the upcoming academic year or January 15 for the Spring semester and calendar year. The report must be in the format directed by the Department and must include at a minimum, the exchange student's full name, Form DS-2019 number (SEVIS ID #), host family placement (current U.S. address), school (site of activity) address, the local coordinator's name and zip code, and other information the Department may request; and

(3) A report of all situations which resulted in the placement of an exchange student with more than one host family or in more than one school. The report must be in a format directed by the Department and include, at a minimum, the exchange student's full name, Form DS-2019 number (SEVIS ID #), host family placements (current U.S. address), schools (site of activity address), the reason for the change in placement, and the date of the move. This report is due by July 31 for the previous academic school year.

[75 FR 65981, Oct. 27, 2010]