

cross-cultural activities and orientation as set forth in § 62.8(d) and § 62.10(c). However, sponsors are encouraged to provide such programs for short-term scholars whenever appropriate.

(f) *Location of exchange.* The short-term scholar shall participate in the Exchange Visitor Program at the conferences, workshops, seminars, or other events or activities stated on his or her Form DS-2019. A participant may also lecture or consult at institutions not listed on the Form DS-2019 if his or her Responsible Officer issues a written authorization of such activity. Such written authorization must be attached to the participant's Form DS-2019.

(g) *Duration of participation.* The short-term scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which time shall not exceed six months. Programs under this section are exempted from § 62.8(b) governing the minimum duration of a program. Extensions beyond the duration of participation are not permitted under this category.

[58 FR 15196, Mar. 19, 1993; 58 FR 48448, Sept. 16, 1993, as amended at 61 FR 39585, July 30, 1996; 64 FR 17975, Apr. 13, 1999. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.22 Trainees and interns.

(a) *Introduction.* These regulations govern Exchange Visitor Programs under which foreign nationals have the opportunity to receive training in the United States. These regulations also establish a new internship program under which foreign nationals who:

(1) Are currently enrolled in and pursuing studies at a degree- or certificate-granting post-secondary academic institution outside the United States or

(2) Graduated from such an institution no more than 12 months prior to their exchange visitor program begin date may enter the United States to obtain work-based learning to build on their academic experience by developing practical skills. Regulations dealing with training opportunities for certain foreign students who are studying at post-secondary accredited educational institutions in the United States are located at § 62.23 (“College

and University Students”). Regulations governing alien physicians in graduate medical education or training are located at § 62.27 (“Alien Physicians”).

(b) *Purpose.* (1)(i) The primary objectives of the programs offered under these regulations are to enhance the skills and expertise of exchange visitors in their academic or occupational fields through participation in structured and guided work-based training and internship programs and to improve participants' knowledge of American techniques, methodologies, and expertise. Such training and internship programs are also intended to increase participants' understanding of American culture and society and to enhance Americans' knowledge of foreign cultures and skills through an open interchange of ideas between participants and their American associates. A key goal of the Fulbright-Hays Act, which authorizes these programs, is that participants will return to their home countries and share their experiences with their countrymen.

(ii) Exchange Visitor Program training and internship programs must not be used as substitutes for ordinary employment or work purposes; nor may they be used under any circumstances to displace American workers. The requirements in these regulations for trainees are designed to distinguish between *bona fide* training, which is permitted, and merely gaining additional work experience, which is not permitted. The requirements in these regulations for interns are designed to distinguish between a period of work-based learning in the intern's academic field, which is permitted, and unskilled labor, which is not.

(2) In addition, a specific objective of the new internship program is to provide foreign nationals who are currently enrolled in and pursuing studies at a degree- or certificate-granting post-secondary academic institution or graduated from such an institution no more than 12 months prior to their exchange visitor program begin date a period of work-based learning to allow them to develop practical skills that will enhance their future careers. Bridging the gap between formal education and practical work experience

and gaining substantive cross-cultural experience are major goals in educational institutions around the world. By providing training opportunities for current foreign students and recent foreign graduates at formative stages of their development, the U.S. Government will build partnerships, promote mutual understanding, and develop networks for relationships that will last through generations as these foreign nationals move into leadership roles in a broad range of occupational fields in their own societies. These results are closely tied to the goals, themes, and spirit of the Fulbright-Hays Act.

(c) *Designation.* (1) The Department may, in its sole discretion, designate as sponsors entities meeting the eligibility requirements set forth in Subpart A of 22 CFR Part 62 and satisfying the Department that they have the organizational capacity successfully to administer and facilitate training and internship programs.

(2) Sponsors must provide training and internship programs only in the occupational category or categories for which the Department has designated them as sponsors. The Department will designate training and internship programs in any of the following occupational categories:

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

(d) *Selection criteria.* (1) In addition to satisfying the general requirements set forth in § 62(10)(a), sponsors must ensure that trainees and interns have verifiable English language skills suffi-

cient to function on a day-to-day basis in their training environment. English language proficiency must be verified by a recognized English language test, by signed documentation from an academic institution or English language school, or through an interview conducted by the sponsor, or an in-person, by videoconference, or by web camera.

(2) Sponsors of training programs must verify that all potential trainees are foreign nationals who have either a degree or professional certificate from a foreign post-secondary academic institution and at least one year of prior related work experience in their occupational field acquired outside the United States or five years of work experience outside the United States in their occupational field.

(3) Sponsors of internship programs must verify that all potential interns are foreign nationals who are currently enrolled in and pursuing studies at a degree-or certificate-granting post-secondary academic institution outside the United States or graduated from such an institution no more than 12 months prior to their exchange visitor program begin date.

(e) *Issuance of Forms DS-2019.* In addition to the requirements set forth in Subpart A, sponsors must ensure that:

(1) They do not issue Forms DS-2019 to potential participants in training and internship programs until they secure placements for trainees or interns and complete and secure requisite signatures on Form DS-7002, Training/Internship Placement Plan (T/IPP or Forms DS-7002);

(2) Trainees and interns have sufficient finances to support themselves for their entire stay in the United States, including housing and living expenses; and

(3) The training and internship programs expose participants to American techniques, methodologies, and expertise and expand upon the participants' existing knowledge and skills. Programs must not duplicate the participants' prior work experience or training received elsewhere.

(f) *Obligations of training and internship program sponsors.* (1) Sponsors designated by the Department to administer training and internship programs must:

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(i) Ensure that trainees and interns are appropriately selected, placed, oriented, supervised, and evaluated;

(ii) Be available to trainees and interns (and host organizations, as appropriate) to assist as facilitators, counselors, and information resources;

(iii) Ensure that training and internship programs provide a balance between the trainees' and interns' learning opportunities and their contributions to the organizations in which they are placed;

(iv) Ensure that the training and internship programs are full-time (minimum of 32 hours a week); and

(v) Ensure that any host organizations and third parties involved in the recruitment, selection, screening, placement, orientation, evaluation for, or the provision of training and internship programs are sufficiently educated on the goals, objectives, and regulations of the Exchange Visitor Program and adhere to all regulations set forth in this Part as well as all additional terms and conditions governing Exchange Visitor Program administration that the Department may from time to time impose.

(2) Sponsors must ensure that they or any host organization acting on the sponsor's behalf:

(i) Have sufficient resources, plant, equipment, and trained personnel available to provide the specified training and internship program;

(ii) Provide continuous on-site supervision and mentoring of trainees and interns by experienced and knowledgeable staff;

(iii) Ensure that trainees and interns obtain skills, knowledge, and competencies through structured and guided activities such as classroom training, seminars, rotation through several departments, on-the-job training, attendance at conferences, and similar learning activities, as appropriate in specific circumstances;

(iv) Conduct periodic evaluations of trainees and interns, as set forth in § 62.22(1);

(v) Do not displace full-or part-time or temporary or permanent American workers or serve to fill a labor need and ensure that the positions that trainees and interns fill exist solely to assist trainees and interns in achieving

the objectives of their participation in training and internship programs; and

(vi) Certify that training and internship programs in the field of agriculture meet all the requirements of the Fair Labor Standards Act, as amended (29 U.S.C. 201 *et seq.*) and the Migrant and Seasonal Agricultural Worker Protection Act, as amended (29 U.S.C. 1801 *et seq.*).

(3) Sponsors or any third parties acting on their behalf must conduct a thorough screening of potential trainees or interns, including a documented interview in-person, by video-conference, or by web camera.

(4) Sponsors must retain all documents referred to in § 62.22(f) for at least three years following the completion of all training and internship programs. Documents and any requisite signatures may be retained in either hard copy or electronic format.

(g) *Use of third parties*—(1) *Sponsors use of third parties*. Sponsors may engage third parties (including, but not limited to host organizations, partners, local businesses, governmental entities, academic institutions, and other foreign or domestic agents) to assist them in the conduct of their designated training and internship programs. Such third parties must have an executed written agreement with the sponsor to act on behalf of the sponsor in the conduct of the sponsor's program. This agreement must outline the full relationship between the sponsor and third party on all matters involving the administration of their exchange visitor program. A sponsor's use of a third party does not relieve the sponsor of its obligations to comply with and to ensure third party compliance with Exchange Visitor Program regulations. Any failure by any third party to comply with the regulations set forth in this Part or with any additional terms and conditions governing Exchange Visitor Program administration that the Department may from time to time impose will be imputed to the sponsor.

(2) *Screening and vetting third parties operating outside the United States*. U.S. sponsors must ascertain that third parties operating outside the United States are legitimate entities within

the context of their home country environment. For third parties that operate as businesses, sponsors must obtain relevant home country documentation, such as business registration or certification, and Dun & Bradstreet identification numbers. Written agreements between sponsors and third parties operating outside the United States must include an annually updated price list for training and internship programs offered by each third party, and must ensure that such overseas third parties are sufficiently trained in all aspects of the programs they represent, including the regulations set forth in this Part.

(3) *Screening and vetting host organizations.* Sponsors must adequately screen all potential host organizations at which a trainee or intern will be placed by obtaining the following information:

(i) The Dun & Bradstreet identification number (unless the host organization is an academic institution, government entity, or family farm);

(ii) Employer Identification Number (EIN) used for tax purposes;

(iii) Verification of telephone number, address, and professional activities via advertising, brochures, Web site, and/or feedback from prior participants; and

(iv) Verification of Workman's Compensation Insurance Policy.

(4) *Site visits of host organizations.* Sponsors must conduct site visits of host organizations that have not previously participated successfully in the sponsor's training and internship programs and that have fewer than 25 employees or less than three million dollars in annual revenue. Placements at academic institutions or at federal, state, or local government offices are specifically excluded from this requirement. The purpose of the site visits is for the sponsors to ensure that host organizations possess and maintain the ability and resources to provide structured and guided work-based learning experiences according to the individualized T/IPPs and that host organizations understand and meet their obligations set forth in this Part.

(h) *Host organization obligations.* Sponsors must ensure that:

(1) Host organizations sign a completed Form DS-7002 to verify that all

placements are appropriate and consistent with the objectives of the trainees or interns as outlined in their program applications and as set forth in their T/IPPs. All parties involved in internship programs should recognize that interns are seeking entry-level training and experience. Accordingly, all placements must be tailored to the skills and experience level of the individual intern;

(i) Host organizations notify sponsors promptly of any concerns about, changes in, or deviations from T/IPPs during training and internship programs and contact sponsors immediately in the event of any emergency involving trainees or interns;

(ii) Host organizations abide by all Federal, State, and Local occupational health and safety laws; and

(iii) Host organizations abide by all program rules and regulations set forth by the sponsor, including the completion of all mandatory program evaluations.

(2) [Reserved]

(i) *Training/internship placement plan (Form DS-7002).* (1) Sponsors must fully complete and obtain requisite signatures for a Form DS-7002 for each trainee or intern before issuing a Form DS-2019. Sponsors must provide each signatory an executed copy of the Form DS-7002. Upon request, trainees and interns must present their fully executed Form DS-7002 to a Consular Official during their visa interview.

(2) To further distinguish between bona fide training for trainees or work-based learning for interns, which are permitted, and ordinary employment or unskilled labor which are not, all T/IPPs must

(i) State the specific goals and objectives of the training and internship program (for each phase or component, if applicable);

(ii) Detail the knowledge, skills, or techniques to be imparted to the trainee or intern (for each phase or component, if applicable); and

(iii) Describe the methods of performance evaluation and the supervision for each phase or component, if applicable.

(3) A T/IPP for trainees must be divided into specific and various phases or components, and for each phase or component must

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(i) Describe the methodology of training and

(ii) Provide a chronology or syllabus.

(4) A T/IPP for interns must:

(i) Describe the role of the intern in the organization and, if applicable, identify various departments or functional areas in which the intern will work and

(ii) Identify the specific tasks and activities the intern will complete.

(j) *Program exclusions.* Sponsors designated by the Department to administer training and internship programs must not:

(1) Place trainees or interns in unskilled or casual labor positions, in positions that require or involve child care or elder care, or in clinical or any other kind of work that involves patient care or contact, including any work that would require trainees or interns to provide therapy, medication, or other clinical or medical care (e.g., sports or physical therapy, psychological counseling, nursing, dentistry, veterinary medicine, social work, speech therapy, or early childhood education);

(2) Place trainees or interns in positions, occupations, or businesses that could bring the Exchange Visitor Program or the Department into notoriety or disrepute; or

(3) Engage or otherwise cooperate or contract with a Staffing/Employment Agency to recruit, screen, orient, place, evaluate, or train trainees or interns, or in any other way involve such agencies in an Exchange Visitor Program training and internship program.

(4) Designated sponsors must ensure that the duties of trainees or interns as outlined in the T/IPPs will not involve more than 20 per cent clerical work, and that all tasks assigned to trainees or interns are necessary for the completion of training and internship program assignments.

(5) Sponsors must also ensure that all "Hospitality and Tourism" training and internship programs of six months or longer contain at least three departmental or functional rotations.

(6) Place interns in the field of aviation.

(k) *Duration.* The duration of a trainee's or intern's participation in a training and internship program must be es-

tablished before a sponsor issues a Form DS-2019. Except as noted below, the maximum duration of a training program is 18 months, and the maximum duration of an internship program is 12 months. For training programs in the field of agriculture and in the "Hospitality and Tourism" occupational category, the maximum duration is 12 months. Training programs in the field of agriculture are permitted to last a total of 18 months, if in development of the T/IPP the additional six months of the program consists of classroom participation and studies. Program extensions are permitted within maximum durations as long as the need for an extended training and internship program is documented by the full completion and execution of a new Form DS-7002.

(l) *Evaluations.* In order to ensure the quality of training and internship programs, sponsors must develop procedures for evaluating all trainees and interns. All required evaluations must be completed prior to the conclusion of a training and internship program, and both the trainees and interns and their immediate supervisors must sign the evaluation forms. For programs exceeding six months' duration, at a minimum, midpoint and concluding evaluations are required. For programs of six months or less, at a minimum, concluding evaluations are required. Sponsors must retain trainee and intern evaluations (electronic or hard copy) for a period of at least three years following the completion of each training and internship program.

(m) *Issuance of certificate of eligibility for exchange visitor (J-1) status.* Sponsors must not deliver or cause to be delivered any Certificate of Eligibility for Exchange Visitor (J-1) Status (Form DS-2019) to potential trainees or interns unless the individualized Form DS-7002 required by § 62.22(i) has been completed and signed by all requisite parties.

(n) *Additional training and internship program participation.* Foreign nationals who enter the United States under the Exchange Visitor Program to participate in training and internship programs are eligible to participate in additional training and internship programs under certain conditions. For

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both trainees and interns, additional training and internship programs must address the development of more advanced skills or a different field of expertise. Interns may participate in additional internship programs as long as they maintain student status or begin a new internship program within 12 months of graduation. Trainees are eligible for additional training programs after a period of at least two years residency outside the United States following their initial training program. Participants who have successfully completed internship programs and no longer meet the selection criteria for internship programs may participate in a training program after a two-year period of residency outside the United States following their internship program. As long as participants meet the selection criteria and fulfill these conditions, there is no limit to the number of times they may participate in a training and internship program.

(o) *Flight training.* (1) The Department will consider the application for designation of a flight training program if such programs comply with the above regulations, and, additionally:

(i) Is, at the time of making said application, a Federal Aviation Administration certificated pilot school pursuant to title 14 CFR part 141; and

(ii) At the time of making said application is accredited as an flight training program by an accrediting agency which is listed in the current edition of the U.S. Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or is accredited as a flight training program by a member of the Council on Postsecondary Accreditation; or

(iii) At the time of making said application has formally commenced the accreditation process with an accrediting agency which is listed in the current edition of the U.S. Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or with a member of the Council on Postsecondary Accreditation. If the application for designation is approved, such designation will be for up to 12 months duration, with continued designation thereafter conditioned upon completion of the accreditation process.

(2) Notwithstanding the provisions of § 62.22(k), the maximum period of participation for exchange visitors in designated flight training programs must not exceed 24 months total. Any request for extension of time in excess of that authorized under this subsection must be made in accordance with § 62.43.

(3) For purposes of meeting the evaluation requirements set forth in § 62.22(m), sponsors and/or third parties conducting the training may utilize the same training records as are required by the Federal Aviation Administration to be maintained pursuant to 14 CFR 141.101.

[72 FR 33673, June 19, 2007]

§ 62.23 College and university students.

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

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

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

(1) They or their program are financed directly or indirectly by:

- (i) The United States Government;
- (ii) The government of the student's home country; or