

§ 62.2 Definitions.

Accompanying spouse and dependents means the alien spouse and minor unmarried children of an exchange visitor who are accompanying or following to join the exchange visitor and who are seeking to enter or have entered the United States temporarily on a J-2 visa or are seeking 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 educational institution means any publicly or privately operated primary, secondary, or post-secondary institution of learning duly recognized and declared as such by the appropriate authority of the state in which such institution is located; provided, however, that in addition to any state recognition, all post-secondary institutions shall also be accredited by a nationally recognized accrediting agency or association as recognized by the United States Secretary of Education but shall not include any institution whose offered programs are primarily vocational in nature.

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

Citizen of the United States means:

(1) An individual who is a citizen of the United States or one of its territories or possessions, or who has been lawfully admitted for permanent residence, within the meaning of section 101(a)(20) of the Immigration and Nationality Act; or

(2) A general or limited partnership created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or possession of the United States, of which a majority of the partners are citizens of the United States; or

(3) 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 possession of the United States, which:

(i) Has its principal place of business in the United States, and

(ii) Has its shares or voting interests publicly traded on a U.S. stock exchange; or, if its shares or voting interests are not publicly traded on a U.S.

stock exchange, it shall nevertheless be deemed to be a citizen of the United States if a majority of its officers, Board of Directors, and its shareholders or holders of voting interests are citizens of the United States; or

(4) 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 territory or possession of the United States; and

(i) Which is qualified with the Internal Revenue Service as a tax-exempt organization pursuant to §501(c) of the Internal Revenue Code; and

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

(iii) In which a majority of its officers and a majority of its Board of Directors or other like body vested with its management are citizens of the United States; or

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

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

Clerical means 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 office tasks.

Consortium means a not-for-profit corporation or association formed by two or more accredited educational 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. Entities that participate in a consortium are not barred from having a separate exchange visitor program designation of their own.

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

Department means the Department of State.

Designation means the written authorization given by the Department of State to an exchange visitor program applicant to conduct an exchange visitor program as a sponsor.

Employee means an individual who provides services or labor for an employer for wages or other remuneration but does not mean independent contractors, as defined in 8 CFR 274a.1(j).

Exchange visitor means 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 J-1 visa. The term does not include the visitor's immediate family.

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

Exchange Visitor Program Services means the Department of State staff delegated authority by the Secretary of State to administer the Exchange Visitor Program in compliance with the regulations set forth in this part.

Exchange visitor's government means the government of the country of the exchange visitor's nationality or the country where the exchange visitor has a legal permanent residence.

Financed directly means financed in whole or in part by the United States 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.

Financed indirectly means:

(1) Financed by an international organization with funds contributed by either the United States or the exchange visitor's government for use in financing international educational and cultural exchanges, or

(2) Financed by an organization or institution with funds made available by either the United States or the exchange visitor's government for the purpose of furthering international educational and cultural exchange.

Form DS-2019 means a Certificate of Eligibility, a controlled document of the Department of State.

Full course of study means enrollment in an academic program of classroom participation and study, and/or doctoral thesis research at an accredited educational institution as follows:

(1) Secondary school students shall satisfy the attendance and course requirements of the state in which the school is located;

(2) College and university students shall register for and complete a full course of study, as defined by the accredited educational institution in which the student is registered, unless exempted in accordance with § 62.23(e).

Graduate medical education or training means participation in a program in which the alien physician 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 means the requirement that an exchange visitor who is within the purview of section 212(e) of the Immigration and Nationality Act (substantially quoted in § 62.44) 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 nonimmigrant H visa as a temporary worker or trainee, or a nonimmigrant

L visa as an intracompany transferee, or a nonimmigrant H or L visa as the spouse or minor child of a person who is a temporary worker or trainee or an intracompany transferee.

Host organization means a in the United States that conducts training or internship programs on behalf of designated program sponsors pursuant to an executed written agreement between the two parties.

Intern means a foreign national who either

(1) Is 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 his/her exchange visitor program begin date, and who enters the United States to participate in a structured and guided work-based internship program in his/her specific academic field.

Internship program means a structured and guided work-based learning program as set forth in an individualized Training/Internship Placement Plan (T/IPP) that reinforces a student's or recent graduate's academic study, recognizes the need for work-based experience, provides on-the-job exposure to American techniques, methodologies, and expertise, and enhances the Intern's knowledge of American culture and society.

J visa means a non-immigrant visa issued pursuant to 8 U.S.C. 1101(a)(15)(J). A J-1 visa is issued to the exchange visitor. J-2 visas are issued to the exchange visitor's immediate family.

On-the-job training means 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 means 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 means the participation of a United States citizen in an educational and cultural program in a for-

foreign country in exchange for the participation of a foreign national in the Exchange Visitor Program. Where used herein, "reciprocity" shall 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. For example, exchange visitors coming to the United States for training in American banking practices and Americans going abroad to teach foreign nationals public administration would be considered a reciprocal exchange, when arranged or facilitated by the same sponsor.

Responsible officer means the employee or officer of a designated sponsor who has been listed with the Department of State as assuming the responsibilities outlined in § 62.11. The designation of alternate responsible officers is permitted and encouraged. The responsible officer and alternate responsible officers must be citizens of the United States or persons who have been lawfully admitted for permanent residence.

Secretary of State means the Secretary of State of the Department of State or an employee of the Department of State acting under a delegation of authority from the Secretary of State.

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

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

Third party means an entity cooperating with or assisting the sponsor in the conduct of the sponsor's program. Sponsors are required to take all reasonable steps to ensure that third parties know and comply with all applicable provisions of these regulations. Third party actions in the course of providing such assistance or cooperation shall be imputed to the sponsor in evaluating the sponsor's compliance with these regulations.

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Trainee means a foreign national who has either:

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

(2) Five years of work experience outside the United States in his/her occupational field, and who enters the United States to participate in a structured and guided work-based training program in his/her specific occupational field.

Training program means a structured and guided work-based learning program set forth in an individualized Trainee/Internship Placement Plan (T/IPP) that enhances both a trainee's understanding of American culture and society and his/her skills in his/her occupational field through exposure to American techniques, methodologies, and expertise.

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§ 62.3 Sponsor eligibility.

(a) Entities eligible to apply for designation as a sponsor of an exchange visitor program are:

(1) United States local, state and federal government agencies;

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

(3) Reputable organizations which are "citizens of the United States," as that term is defined in § 62.2.

(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 provisions of part 62; and

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

§ 62.4 Categories of participant eligibility.

Sponsors may select foreign nationals to participate in their exchange visitor programs. Participation by foreign

nationals in an exchange visitor program is limited to individuals who shall be engaged in the following activities in the United States:

(a) *Student*. An individual who is:

(1) Studying in the United States:

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

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

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

(B) An institute approved by or acceptable to the post-secondary accredited educational 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); or

(3) Engaged in English language training at:

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

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

(b) *Short-term scholar*. A professor, research scholar, or person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar type of institutions.

(c) *Trainee*. An individual participating in a structured training program conducted by the selecting sponsor.

(d) *Teacher*. An individual teaching full-time in a primary or secondary accredited educational institution.

(e) *Professor*. An individual primarily teaching, lecturing, observing, or consulting a post-secondary accredited