

Department of State

§ 62.9

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