22 CFR Volume 1, Part 62, Exchange Visitor Program

EXTRACT: Part 62.10, Program Administration, and Part 62.25, Secondary School Students

62.10 Program administration.

§ 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]

62.25 Secondary school students.

§ 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-019 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]