

## **9 FAM 41.62 Notes**

*(TL:VISA-643; 08-25-2004)*  
*(Office of Origin: CA/VO/L/R)*

### **9 FAM 41.62 N1 Exchange Visitor Program (22 CFR 62)**

*(TL:VISA-377; 03-29-2002)*

On October 1, 1999, the United States Information Agency merged with the United States Department of State. The Exchange Visitor Program Service, which consisted of two branches (the Program Designation Branch and the Waiver Review Branch) were absorbed into two different divisions and locations. The following are addresses for the two branches:

Program Designation  
Bureau of Educational and Cultural Affairs  
ECA/EC/PS and ECA/EC/AG  
Department of State  
State Annex SA-44  
301 - 4th Street, S.W., Room 734  
Washington, D.C. 20547  
Telephone: (202) 401-9810  
Fax: (202) 401-9809

Exchange Visitor Waiver Review Branch  
CA/VO/L/W State Annex 1, Room L- 603  
2401 E Street, N.W.  
Washington, D.C. 20522-0106  
Telephone: (202) 663-2800  
FAX: (202) 663-2868

#### **9 FAM 41.62 N1.1 Purpose**

*(TL:VISA-377; 03-29-2002)*

The purpose of the Exchange Visitor Program (J-visa) is to further the foreign policy interest of the United States by increasing the mutual understanding between the people of the United States and the people of other countries by means of mutual educational and cultural exchanges. The ultimate goal is to meet this purpose while protecting the health, safety and welfare of the foreign nationals participating in the Program as exchange visitors. Only organizations that have been designated by the Exchange Visitor Program Designation may participate. (See 9 FAM 41.62 N1.2 below.)

## **9 FAM 41.62 N1.2 Application Procedure (22 CFR 62.5)**

(TL:VISA-377; 03-29-2002)

a. Any U.S. citizen public or private entity (e.g., private organizations, universities and colleges, research institutions, etc.) meeting the eligibility requirements set forth in 22 CFR 62.3 may apply to the Department for designation as an exchange visitor program sponsor. (Refer to 9 FAM 41.62 N2 to see the definition of Citizen of the United States.) Such entities must demonstrate, to the Department's satisfaction, the ability to comply and remain in continual compliance with all provisions of the Exchange Visitor Program regulations (22 CFR 62), and meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange program.

b. An application for designation can be obtained by contacting the Exchange Visitor Program Designation. After the application is completed, it is to be submitted to the following address:

Exchange Visitor Program Designation (ECA/GCV)  
Bureau of Educational and Cultural Affairs  
301- 4TH Street, S.W.  
Washington, D.C. 20547-0001

**NOTE:** An applicant for designation as a sponsor to administer a "flight training" program must, at the time of making an application, be a Federal Aviation Administration certified pilot school pursuant to Title 14, Code of Federal Regulations, Part 141 (refer to 22 CFR 62.22(n)) or show evidence that they have applied for accreditation.

## **9 FAM 41.62 N1.3 Designation of Exchange Visitor Programs (22 CFR 62.6)**

(TL:VISA-507; 12-11-2002)

Organizations (e.g., private organizations, universities and colleges, research institutions, etc.) that apply to the Exchange Visitor Program Designation and who meet all regulatory requirements may be designated, at the sole discretion of the Exchange Visitor Program Designation, as "program sponsors." Once designated, organizations are provided a letter of designation and a supply of DS Form 2019, Certification of Eligibility for Exchange Visitor (J-1) Status, formerly known as Form IAP-66. This form is the basic document required to support an application for an exchange visitor visa (J-1), as well as for maintaining an exchange visitor status.

## **9 FAM 41.62 N1.4 Redesignation of Exchange Visitor Program (22 CFR 62.7)**

*(TL:VISA-377; 03-29-2002)*

a. Upon expiration of a given designation term (5 years, unless restricted by the Department), a program sponsor may seek redesignation for another term. In order to apply for redesignation, the program sponsor must advise the Exchange Visitor Program Designation by letter or by checking the appropriate block on the annual report form, no less than four months prior to the expiration date of the term of designation. Redesignation requests are evaluated based upon the criteria established in 22 CFR 62.6, and taking into account the program sponsor's annual reports and other documentation reflecting its records as an exchange visitor program sponsor.

b. Some examples of "other documentation" are letters and memoranda from the general public, businesses, local, state and federal government agencies; foreign nationals (or their families) who are currently participating in or who have participated in an exchange program, and cables and/or telegrams from the abroad posts and/or embassies reporting concerns or making inquiries about specific program sponsors.

## **9 FAM 41.62 N1.5 Terms of Designation**

*(TL:VISA-377; 03-29-2002)*

When an entity is designated by the Exchange Visitor Program Designation to conduct an exchange program, through the letter of designation the organization is granted a "term" or period of time in which they can administer an exchange program before having to reapply for designation - known as "redesignation." The following are the terms most often granted to organizations at the time of designation:

**One-year term:** Granted to a newly established organization utilizing a 'bond' for financial stability or for a pilot program. This permits the organization to prove that they are administering a viable program and can financially support the program in the event of an emergency.

**Two-year term:** The au pair program designation is limited to two years only.

**Five-year term:** Granted to all other organizations conducting an exchange program.

## **9 FAM 41.62 N1.6 Certification of Eligibility for Exchange Visitor (J-1) Status**

*(TL:VISA-377; 03-29-2002)*

a. This document is the basic document required to support an application for an exchange visitor visa (J-1). It is a four-page document printed on NCR (No Carbon Required) paper; consisting of an original (white) and three (pink, yellow and green) copies. In order to "control" these forms, each document is printed with a unique identifier known as a "document number" in the top right-hand corner which consists of an "alpha" character, followed by six numerical characters (e.g., F010101). This form is provided to organizations designated by the Exchange Visitor Program Designation to conduct an international educational and cultural exchange program. [This form is not provided to non-designated organizations or to a private citizen and/or individual.] Only completed forms are to be transmitted to the potential exchange visitor by the program sponsor. Program sponsors are only to issue forms to potential exchange visitors when it has been determined that they have met all regulatory requirements to participate in their program for a specific activity.

b. Because this is a controlled document, program sponsors are required to safely secure the documents and prevent their unauthorized use; prohibit the transfer of any form to another sponsor or other person unless authorized by the Department to do so; to notify the Department promptly by phone (and confirmed promptly by writing and/or fax) of the document number of any forms that are presumed lost or stolen; maintain a record of all forms received and/or issued, as well as provide the Department with the form numbers of any forms that are damaged and/or unusable and destroy them on the premises. In addition, program sponsors are to request exchange visitors and prospective exchange visitors to return any unused forms sent to them; make a list of the document numbers to be provided to the Department before destroying them.

## **9 FAM 41.62 N1.7 Serial Numbers of Designated Exchange Visitor Programs**

*(TL:VISA-377; 03-29-2002)*

When the Exchange Visitor Program Designation designates an organization or agency as a program sponsor, it is assigned a unique number [referred to as the Program Number] that is used to identify their program. The program sponsor number is assigned based upon the following series:

(1) **G-1**—Department of State (formerly United States Information Agency);

- (2) **G-2**—U.S. Agency for International Development (AID);
- (3) **G-3**—Department of State;
- (4) **G-4**—International agencies or organizations in which the U.S. Government participates;
- (5) **G-5**—Other national, state or local government agencies;
- (6) **P-1**—Educational institutions, e.g., schools, colleges, universities, seminaries, libraries, museums, and institutions devoted to scientific and technological research;
- (7) **P-2**—Hospitals and related institutions;
- (8) **P-3**—Non-profit organizations, associations, foundations, institutions (academic institutions conducting training programs can be classified as a P-3 as long as they are considered non-profit); and
- (9) **P-4**—For-profit organizations (business and industrial concerns).

## **9 FAM 41.62 N1.8 Responsible and/or Alternate Responsible Officers**

*(TL:VISA-377; 03-29-2002)*

At the time of application, and throughout the life of a program sponsor, the organization appoints individuals to perform the duties attendant to sponsorship. The primary person appointed as being responsible for being thoroughly familiar with the Exchange Visitor Program regulations and the Department's current Codebook and instructions for Responsible Officers is known as the "Responsible Officer (RO)." There could also be other individuals appointed to assist the RO in administering the program known as "Alternative Responsible Officer(s) (AROs)." The RO is required to train and supervise the AROs. Both the RO and AROs are required to ensure that the exchange visitor obtains sufficient advice and assistance to facilitate the successful completion of their participation in the program. In addition, all official communications relating to the exchange program with the Department and the United States Immigration and Naturalization Service (INS) is to be conducted through the RO and/or ARO. Both act as the custodian for the control, issuance and distribution of the Certification of Eligibility for Exchange Visitor (J-1) Status forms.

## 9 FAM 41.62 N2 Exchange Visitor Program Definitions (22 CFR 62.2)

(TL:VISA-377; 03-29-2002)

a. **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 who is unmarried and under the age of 21 years old.

b. **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.

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

d. **Agency** means the former "United States Information Agency" which was consolidated into the United States Department of State on October 1, 1999.

e. **Form DS-2019, Certification of Eligibility for Exchange Visitor (J-1) Status** (Formerly IAP-66) is the basic document required to support an application for an exchange visitor visa (J-1). It is a four-page document printed on NCR (No Carbon Required) paper; consisting of an original (white) and three (pink, yellow and green) copies. This document falls under the jurisdiction of the Exchange Visitor Program Designation, Bureau of Educational and Cultural Affairs (ECA/GCV) of the U.S. Department of State.

f. **"CIPRIS"** is the acronym for "Coordinated Interagency Partnership Regulating International Students."

g. **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 INA 101(a)(20); 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:

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

(b) 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

(a) Which is qualified with the Internal Revenue Service as a tax-exempt organization pursuant to ' 5018 of the Internal Revenue Code; and

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

(c) 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.

h. **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.

i. **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.

j. **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.

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

l. **Director** means the Director of the United States Information Agency or an employee of the Agency acting under a delegation of authority from the Director. (This now refers to the Secretary of State as of October 1, 1999.) Document number is the unique number printed in the top, right-hand corner of every Form 2019, Certification of Eligibility for Exchange Visitor (J-1) Status, formally Form IAP-66.

m. **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).

n. **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.

o. **Exchange Visitor Program** means the international exchange program administered by the Department 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.

p. **Exchange Visitor Program Designation** means the Department staff delegated authority by the Under Secretary for Public Diplomacy to administer the Exchange Visitor Program in compliance with the regulations set forth in this part.

q. **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.

r. **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.

s. **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.

t. **Form IAP-66, Certification of Eligibility for Exchange Visitor (J-1) Status**, means a controlled document of the Department. Due to the consolidation of the United States Information Agency into the Department of State, the IAP-66 form has been changed. The new number is "DS-2019."

u. **Full course of study** means enrollment in, attendance and participation 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; and

(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 22 CFR 62.23(e).

v. **Graduate medical education or training** means participation in a program accredited by the Accreditation Council for Graduate Medical Education (ACGME) 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.

w. **Home-country physical presence requirement** means the requirement that an exchange visitor who is within the purview of INA 212(e) of the Immigration and Nationality Act (substantially quoted in 9 FAM 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 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.

x. **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.

y. **Non-specialty occupation** means any occupation in which the participant must possess at least two years previous training, education or experience.

z. **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.

aa. **Program number** is the unique number assigned to a program sponsor by the Exchange Visitor Program Designation at the time of designation. It is utilized on the Certification of Eligibility for Exchange Visitor (J-1) Status form to identify their program activity.

bb. **Proof of Insurance** is the certification of compliance with the insurance requirement set forth in 22 CFR 62.14.

cc. **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 22 CFR 62.23.

dd. **Reciprocity** means the participation of a United States citizen 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" 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. It is expected that sponsors will apply a "good faith" effort in securing the reciprocal component of exchanges.

ee. **Reinstatement by the Department** means returning an exchange visitor to valid "program status" only. This is NOT to be confused with the reinstatement handled by the Immigration and Naturalization Service (INS) which reinstates/returns a non-immigrant to "lawful immigration status." Responsible officer means the employee or officer of a designated sponsor who has been listed with the Department as assuming the responsibilities outlined in 22 CFR 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.

ff. **Specialty occupation** means an occupation that the maximum period of participation in the Exchange Visitor Program for a trainee shall be 18 months total (this means that a training program can be of any length, but not exceed a cumulative total of 18 months. Designation language for all "training" program will reflect the actual time of training approved in accordance with the plans submitted by the sponsor.

gg. **Sponsor** means a legal entity designated by the Under Secretary for Public Diplomacy of the United States Department of State (prior to October 1, 1999, formerly the Director of the United States Information Agency) to conduct an exchange visitor program.

hh. **"SEVP"** is an acronym for "Student and Exchange Visitor Program".

ii. **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.

## **9 FAM 41.62 N3 Categories of Exchange Visitor Participants and Duration of Participation**

*(TL:VISA-507; 12-11-2002)*

At the time of designation, the Department provides the exchange visitor program applicant with written authorization to conduct an exchange visitor program as a sponsor. This letter assigns a program number that is the program sponsor's unique identifier; designation language to be used in Item 2 of the Certification of Eligibility; and, the categories of exchange visitors authorized by the Department. Program sponsors are not permitted to issue Form DS 2019, Certification of Eligibility for Exchange Visitor (J-1) Status for a category that was not authorized by the Department. At the

time of this writing, the Department has thirteen (13) categories of exchange visitors (two categories are included under 9 FAM 41.62 N10 "Student") Foreign nationals participating in exchange visitor programs may only engage in activities authorized for their program. The following is a list of categories (listed in alphabetical order, opposed to the order listed on Form DS-2019 or in the Exchange Visitor Program regulations), a brief description and the duration of participation for each:

**9 FAM 41.62 N3.1 Alien physician (22 CFR 62.27)**

*(TL:VISA-377; 03-29-2002)*

a. An Alien physician is a foreign medical graduate who is seeking to pursue graduate medical education or training at an accredited school of medicine or scientific institution:

b. The Educational Commission for Foreign Medical Graduates (ECFMG) is the only program sponsor authorized to use this category. Foreign medical graduates under this category must successfully complete examinations administered by ECFMG that measure their command of English and the medical sciences.

c. Foreign medical graduates must be pursuing American medical board certification.

d. All foreign medical graduates are subject to the two-year home-country physical presence requirement.

e. Exception to ECFMG Sponsorship: A foreign physician may be sponsored by a designated a program sponsor other than ECFMG (e.g., a U.S. university, academic medical center, school of public health, or other public health institution) as a "research scholar" ONLY IF:

(1) The activities DOES NOT include any clinical activities involving direct patient care; and,

(2) The program sponsor's letter of designation authorizes the use of the "research scholar" category, at which time the duration of participation is shall not exceed three years. DURATION: The duration of participation is limited to seven years, unless the Department approves an extension.

## **9 FAM 41.62 N3.2 Au Pair (22 CFR 62.31)**

(TL:VISA-643; 08-25-2004)

a. An au pair is an individual entering the United States for a period of one year for the purpose of residing with an American host family (or the family of a legal permanent resident). *The au pair must:*

(1) *Directly participating in the family's home life;*

(2) *Providing limited child care services; and*

(3) *Enroll and attend classes offered by an accredited U.S. post-secondary institution for at least six semester hours (or the equivalent) of academic credit.*

*Host family participants must agree to facilitate the enrollment and attendance of the au pair. They must pay the cost of such academic course work, up to \$500. Failure to adhere to the education component is grounds for termination from the program.*

b. Participation in the au pair program is *normally limited to one year and one sponsor*. In addition, au pairs *must not* be placed in the homes of family/relatives, irrespective of the distance in relations (e.g., third cousin, great aunt and/or uncle, etc.)

c. *Au pair program sponsors may request that an au pair participant be granted an additional six, nine, or 12-month extension of program participation. The sponsor must:*

(1) *Make a request electronically in the SEVIS system;*

(2) *Notify the Bureau of Educational and Cultural Affairs (ECA) of the request; and*

(3) *Pay the applicable processing fee.*

### **9 FAM 41.62 N3.2-1 Approval of Extension**

(TL:VISA-643; 08-25-2004)

*If ECA approves the extension, it will update the current SEVIS record of the participant to reflect the new program end date. The program sponsor will then print the Form DS-2019, sign the form in blue ink and give it to the participant for presentation to a consular officer in applying for a new visa. The extension cannot be for a time period longer than two years from the initial start date of the program. A consular officer may issue a J-1 visa to an au pair for the participation in the au pair program beyond one year only on the basis of this new DS-2019.*

### **9 FAM 41.62 N3.3 Camp counselor (22 CFR 62.30)**

*(TL:VISA-377; 03-29-2002)*

a. A camp counselor is an individual selected to be a counselor in an accredited U.S. summer camp (during the U.S. summer months) who imparts skills to American campers and information about his or her country or culture. **NOTE:** While it is recognized that some non-counseling chores are an essential part of camp life for all counselors, this program is not intended to assist American camps in bringing in foreign nationals to serve as administrative personnel, cooks, nurses, physicians or menial laborers, such as dishwashers or janitors.

b. DURATION: The duration of participation shall not exceed four months.

### **9 FAM 41.62 N3.4 Government visitor (22 CFR 62.29)**

*((TL:VISA-377; 03-29-2002)*

a. A Government visitor is an individual who is an influential or distinguished person selected to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These are people-to-people programs designated to enable government visitors to better understand American culture and society, and to enhance American knowledge of foreign cultures. The objective is to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions.

b. This category is for the “exclusive use” of U.S. federal, state, and local government agencies.

c. DURATION: The duration of participation shall not exceed eighteen months.

### **9 FAM 41.62 N3.5 International visitor (22 CFR 62.28)**

*(TL:VISA-377; 03-29-2002)*

a. An international visitor is an individual who is a recognized as or a potential leader in his home country, selected by the Department for consultation, observation, research, training, or demonstration of special skills in the United States. These are people-to-people programs designated to enable international visitors to better understand American culture and society, and to enhance American knowledge of foreign cultures. The objective is to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions.

**NOTE:** This category is for the “exclusive use” of the U.S. Department of State (formerly the United States Information Agency).

b. DURATION: The duration of participation shall not exceed one year.

### **9 FAM 41.62 N3.6 Professor (22 CFR 62.20)**

*(TL:VISA-377; 03-29-2002)*

a. A professor is a foreign professor whose primary purpose is to teach, lecture, observe, or consult at a post-secondary accredited educational institution, museum, library, or similar types of institution. The professor may also conduct research and participate in occasional lectures

and short-term consultations unless disallowed by the sponsor. The professor’s appointment to a position shall be temporary, even if the position itself is permanent. The individual shall not be a candidate for a tenure-tracked position.

b. On June 10, 1996, the Department adopted a rule which limits program participation as a professor and/or research scholar to nonimmigrant aliens who have not been physically present in the United States in J-visa status, for all or part of the twelve month period preceding their (re)entry into the U.S. as a professor or research scholar participant. An exception to that rule was provided to nonimmigrant aliens present in the U.S. for less than six months or whose presence in the U.S. was as a program participant in the category of short-term scholar.

c. Alien short-term scholars and physicians are governed by regulations set forth in 22 CFR 62.21 and 27, respectively.

d. DURATION: The duration of participation shall not exceed three years.

### **9 FAM 41.62 N3.7 Research scholar (22 CFR 62.20)**

*(TL:VISA-377; 03-29-2002)*

a. A research scholar is a foreign research scholar whose primary purpose is to conduct research, observe, or consult in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. The research scholar may also teach, lecture and participate in occasional lectures and short-term consultations unless disallowed by the sponsor. The research scholar's appointment to a position shall be temporary, even if the position itself is permanent. The individual shall not be a candidate for a tenure-tracked position.

b. On June 10, 1996, the Department adopted a rule which limits program participation as a professor or research scholar to nonimmigrant aliens who have not been physically present in the United States in J-visa status, for all or part of the twelve month period preceding their (re)entry into the U.S. as a professor or research scholar participant. An exception to that rule was provided to nonimmigrant aliens present in the U.S. for less than six months or whose presence in the U.S. was as a program participant in the category of "short-term scholar."

c. Alien short-term scholars and physicians are governed by regulations set forth in 22 CFR 62.21 and 27, respectively.

d. Minimum qualifications for this category are a Masters degree, or a Bachelors degree with significant experience in the field in which research will be conduct (Significant is not defined.)

e. DURATION: The duration of participation shall not exceed three years.

### **9 FAM 41.62 N3.8 Short-term scholar (22 CFR 62.21)**

*(TL:VISA-377; 03-29-2002)*

a. A short-term scholar is 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 types of institutions.

b. On June 10, 1996, the Department adopted a rule which limits program participation as a professor/research scholar to nonimmigrant aliens who have not been physically present in the United States in J-visa status, for all or part of the twelve month period preceding their (re)entry into the U.S. as a professor or research scholar participant. An exception to that rule was provided to nonimmigrant aliens present in the U.S. for less than six months or whose presence in the U.S. was as a program participant in the category of "short-term scholar." However, exchange visitors who have previously participated in an exchange program in the U.S. for thirty-six (36) months or more are not expected to attempt to reenter the U.S. to rejoin their original program sponsor as this is considered to be a continuation of their original program objective.

c. **DURATION:** The duration of participation shall not exceed six months.

### **9 FAM 41.62 N3.9 Specialist (22 CFR 62.26)**

*(TL:VISA-377; 03-29-2002)*

a. A specialist is an individual who is an expert in a field of specialized knowledge or skill coming to the United States to lecture, observe, consult, and to participate in seminars, workshops, conferences, study tours, professional meetings, or similar types of educational and professional activities at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. This category is to promote professional relationships and communication.

b. **DURATION:** The duration of participation shall not exceed one year.

### **9 FAM 41.62 N3.10 Student**

#### **9 FAM 41.62 N3.10-1 Secondary school student (22 CFR 62.25)**

*(TL:VISA-377; 03-29-2002)*

a. **Secondary school students:** This category affords foreign students an opportunity to study in a United States high school while living with an American host family. The students must be:

(1) A secondary school student in their home country who has not completed more than eleven years of primary and secondary schooling, excluding kindergarten, or

(2) At least the age of 15 but not more than 18-1/2 years of age at the time of the initial school enrollment, and

(3) Has not previously participated as an exchange visitor for high school studies in the U.S. Screening factors such as English language proficiency, maturity, character, and scholastic aptitude are critical.

b. Sponsors are required to secure permanent host family placement prior to the student's entry into the United States. In addition, all students must be authorized, in writing, for high school enrollment prior to entry into the U.S. All sponsors are required, in addition to the orientation requirements set forth in 22 CFR 62.10, to provide students, prior to their departure from the home country, with the following information:

(1) A summary of all operating procedures, rules, and regulations governing student participation in the exchange program;

(2) A detailed profile of the school, family, and community in which the student is placed; and,

(3) A detailed summary of travel arrangements.

c. **DURATION:** The duration of participation is a minimum of one academic semester or maximum of one academic year.

**9 FAM 41.62 N3.10-2 College/university student (22 CFR 62.23)**

*(TL:VISA-377; 03-29-2002)*

a. **A College or university student:** In order to participate, an individual must be someone who is:

(1) Studying in the United States; pursuing a full course of study at a secondary accredited educational institution; 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 engaged full-time in a prescribed course of study of up to 24 months duration conducted by a post-secondary accredited educational institution; or 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; or

(2) Is engaged in academic training as permitted in 22 CFR 62.23(f); or

(3) Engaged in English language training at a post-secondary accredited educational institution, or 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 supported totally by the home government.

b. Exchange visitors participating in the college or university student category should be supported substantially by funding from any source other than personal or family funds. The exception would be students who are participating in an exchange program in which there is a written, formal exchange agreement.

c. Exchange visitors are prohibited from entering the U.S. solely for the purpose of participating in academic training, unless their absence from the U.S. was for vacation.

d. DURATION: Duration of participation is determined by whether the exchange visitor is a degree or non-degree student. An explanation of each is provided as follows:

**9 FAM 41.62 N3.10-3 Degree students**

*(TL:VISA-377; 03-29-2002)*

Exchange visitor students who are in degree programs shall be authorized to participate in the Exchange Visitor Program as long as they are either:

(1) Studying at the post-secondary accredited educational institution listed on their Form 2019, Certification of Eligibility for Exchange Visitor (J-1) Status, and are:

(a) Pursuing a full course of study as set forth in 22 CFR 62.23(e), and

(b) Maintaining satisfactory advancement towards the completion of their academic program; or

(2) Participating in an authorized academic training program as permitted in 22 CFR 62.23(f). (Refer to 9 FAM 41.62 for information on Academic Training.)

**9 FAM 41.62 N3.10-4 Non-degree students**

*(TL:VISA-520; 02-11-2003)*

a. Exchange visitors who are non-degree students shall be authorized to participate in the Exchange Visitor Program for up to 24 months, if they are either:

(1) Studying at the post-secondary accredited educational institution listed on their Form DS-2019, *Certificate of Eligibility for Exchange Visitor (J-1) Status*, (formerly Form IAP-66) and are:

(a) Participating full-time in a prescribed course of study; and

(b) Maintaining satisfactory advancement towards the completion of their academic program; or

(2) Participating in an authorized academic training program as permitted in 22 CFR 62.23(f). (Refer to 9 FAM 41.62 N6.3 for information on Academic Training.)

**NOTE:** Exchange visitors are prohibited from entering the United States solely for the purpose of participating in academic training, unless their absence from the U.S. was for vacation.

b. Summer work and/or travel allows full-time alien students who are enrolled in courses and working towards a degree to enter the United States to work and travel for up to four months during their summer vacations.

c. **DURATION:** The duration of participation shall not exceed four months.

d. Designated sponsors of summer and/or work travel exchange programs are obligated to pre-arrange employment for no more than 50 percent of their participants. For those participants for whom employment has not been pre-arranged, sponsors must:

(1) Ensure that participants have sufficient financial resources to support themselves during their search for employment;

(2) Provide participants with pre-departure information that explains how to seek employment and secure lodging in the United States;

(3) Prepare and provide a job directory that includes at least as many job listings as the number of participants entering the United States without pre-arranged employment; and

(4) Undertake reasonable efforts to secure suitable employment for participants unable to find jobs on their own after one week.

**9 FAM 41.62 N3.11 Teacher (22 CFR 62.24)**

*(TL:VISA-377; 03-29-2002)*

a. A teacher is an individual who teaches full-time in a primary or secondary accredited educational institution. A foreign national must meet the qualifications for teaching in primary and secondary schools in his/her country of nationality or last legal residence; must satisfy the standards of the U.S. state in which he or she will teach; is of good reputation and character; seeks to come to the U.S. for the purpose of full-time teaching at a primary or secondary accredited educational institution in the U.S.; and, has a minimum of three years of teaching or related professional experience.

b. DURATION: The duration of participation shall not exceed three years.

### **9 FAM 41.62 N3.12 Trainee (22 CFR 62.24)**

*(TL:VISA-377; 03-29-2002)*

a. A Trainee is an individual participating in a structured training program conducted by the program sponsor or its designated third party trainers. The primary purpose is to enhance the foreign nationals' skills in his/her specialty or non-specialty occupation through participation in a structured training program as well as to improve their knowledge and understanding of American techniques, methodologies, or expertise within their field of endeavor. Program sponsors are required to ensure that individual training plans are prepared for selected trainees, and that continuous supervision and periodic evaluation are provided. Training is limited to the occupational category and/or categories for which the program sponsor has obtained designation.

(1) This category includes flight training (22 CFR 62.22(n)) (refer to paragraph on Flight Training below).

(2) The program sponsor may utilize the services of a third party in conducting their designated training program.

(3) Training is not permitted in what is considered to be "unskilled" occupations. Some examples are: bookkeepers; general and hotel clerks; dining room attendants; janitors; kitchen workers; common, farm and mine laborers; receptionists; porters; general sales clerks; truck and tractor drivers; recreational and amusement ushers; and, yard workers.

b. DURATION: While the regulations state that the maximum period of participation in the Exchange Visitor Program for a trainee shall be 18 months total, this means that a training program can be of any length, but shall not exceed a cumulative total of 18 months. Designation language for all "training" programs will reflect the actual time of training approved in accordance with the training plans submitted by the sponsor. Flight trainees are limited to 24 months.

**NOTE:** Flight training must be provided under the Federal Aviation Administration's (FAA) Part 141 of Title 14 of the Code of Federal Regulations.

## **9 FAM 41.62 N4 APPLICATION PROCEDURE (22 CFR 62.5)**

*(TL:VISA-377; 03-29-2002)*

a. Any U.S. citizen public or private entity meeting the eligibility requirements set forth in 9 FAM 62.3 may apply to the Department for designation as an exchange visitor program sponsor. (Refer to 9 FAM 41.62 N2 to see the definition of Citizen of the United States.) Such entities must demonstrate, to the Department's satisfaction, the ability to comply and remain in continual compliance with all provisions of the Exchange Visitor Program regulations (9 FAM 41.62), and meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange program.

b. An application for designation can be obtained by contacting the Exchange Visitor Program Designation office (address is listed below). After the application is completed, it is to be submitted to the following address:

Exchange Visitor Program Designation (ECA/GCV)  
Bureau of Educational and Cultural Affairs  
301 4TH Street, S.W., Room 734  
Washington, D.C. 20547-0001

**NOTE:** An applicant for designation as a sponsor to administer a "flight training" program must, at the time of making an application, be a Federal Aviation Administration certified pilot school pursuant to Title 14, Code of Federal Regulations, Part 141 (refer to 22 CFR 62.22(n)).

## **9 FAM 41.62 N5 INSURANCE (22 CFR 62.14)**

*(TL:VISA-377; 03-29-2002)*

Sponsors shall require each exchange visitor to have insurance coverage in effect that covers the exchange visitor (and his or her family members utilizing the J-2 visa) for sickness or accident during the program period. At a minimum, the insurance coverage shall include:

- (1) Medical benefits of at least \$50,000 per person per accident or illness;
- (2) Repatriation of remains in the amount of \$7,500;
- (3) Expenses associated with medical evacuation in the amount of \$10,000; and,
- (4) A deductible not to exceed \$500 per accident or illness.

Program sponsors are under an obligation to terminate any exchange visitor (and dependents) from their program who willfully fails to maintain the insurance requirements required by the Exchange Visitor Program regulations.

## **9 FAM 41.62 N6 Student and Exchange Visitor Program (SEVP)**

### **9 FAM 41.62 N6.1 Origin of CIPRIS (now SEVP)**

*(TL:VISA-507; 12-11-2002)*

In response to a requirement in the Illegal Immigration Reform and Immigrant Responsibility Act, in 1997 the Service initiated a pilot program to monitor the academic progress, movement, etc. of foreign students and exchange visitors from entry into the United States to departure. This program was formerly known as CIPRIS, the acronym for Coordinated Interagency Partnership Regulating International Students. The program has now been renamed as the Student and Exchange Visitor Program, or SEVP. The program generates Form I-20s and Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status (bearing indicia Form I-20P and Form DS-2019) which will be bar-coded to identify the various activities of the student from arrival at school, through changes in program or authorized employment due to changed circumstances, transfer to another

school, etc. When fully implemented (by January 1, 2003), all posts (as well as the INS) will be able to retrieve through the internet the current status of any student. Schools participating in the pilot program will continue to do so after the official end of the pilot program, which will then be designated "operational prototype."

### **9 FAM 41.62 N6.2 Current Status of the Program**

*(TL:VISA-507; 12-11-2002)*

The Form I-20Ps from those schools, which are blue, are currently sent to the student and a copy is transmitted electronically to INS. Eventually, the posts will receive the forms electronically, since the goal is to eliminate paper copies of Form I-20's entirely. The Form I-20Ps are used in lieu of both Form I-20 A-B, Certificate of Eligibility for Nonimmigrant (F-1) Student Status For Academic and Language Status and Form I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status For Vocational Students. Separate Form I-20Ps are provided for each dependent, even if the dependent(s) is/are accompanying the student. Ultimately, under this program, full-term students (and their dependents) will be issued secure identity cards that can be used to re-enter the United States in lieu of an endorsed Form I-20.

### **9 FAM 41.62 N6.3 "CIPRIS" Direct**

*(TL:VISA-507; 12-11-2002)*

CIPRIS direct permits posts to use a touch-tone telephone to access current information about CIPRIS students. Calls should be made to (202) 633-1106. The system will ask for the site type, which is number 3, the post 3 letter code used on CLASS hits, and the student's "N" number (given in section 1 of the Form I-20P or right hand corner of Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status). After entering these data the caller should press the pound-sign key. The system will respond with instructions for getting either a voice or fax reply.

### **9 FAM 41.62 N7 Employment (22 CFR 62.16)**

*(TL:VISA-377; 03-29-2002)*

It is the responsibility of the RO to advise exchange visitors of the restrictions that may be placed on their activities; the limitations of their employment; and, opportunities they may or may not be eligible to pursue while in the United States.

An exchange visitor may receive compensation from the program sponsor, or the sponsor's appropriate designee, for employment when such activities are part of the exchange visitor's program.

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 of an exchange visitor program.

The United States Immigration and Naturalization Service (INS) is responsible for authorizing the employment of dependents (e.g., accompanying spouse and minor children, J-2 visa holders) of the exchange visitor (J-1 visa holder).

## **9 FAM 41.62 N7.1 Student Employment**

*(TL:VISA-377; 03-29-2002)*

a. There are two types of employment authorizations available for students on the J-visa: (1) student employment and academic training (see N8 for more information on academic training). The difference between the two is that student employment occurs on-campus unless there is economic necessity; and, academic training is related to the student's field of study and in most cases, occurs off-campus and for a specified period of time.

b. Exchange visitors who are participating as college/university students are permitted to work and are limited to twenty (20) hours per week, except during school breaks and annual vacation, unless authorized by the RO for economic necessity. Some examples of student employment are:

(1) Scholarship, Fellowship or Assistantship: If the employment is required because of a scholarship, fellowship or an assistantship, such activity usually occurs on campus with the school as the employer. In certain circumstances, however, the work can be done elsewhere for a different employer. For example: an exchange visitor may work in a government or private research laboratory if the exchange visitor's major professor (e.g., department chair) has a joint appointment at one of those locations and the employment is supervised and counts towards the exchange visitor's degree;

(2) On-Campus: The Exchange Visitor Program regulations allow for jobs on-campus that are related and/or unrelated to study, which stipulates that the work can be done "on the premises" of the school. This means that the school does not have to be the employer. For example: exchange visitors could work for a commercial company, such as a food service operating on the campus; and

(3) Off-Campus: Exchange visitors may be authorized off-campus employment when "necessary due to serious, urgent and unforeseen economic circumstances" that have arisen since the exchange visitor's sponsorship on the J-visa.

## **9 FAM 41.62 N7.2 Summer Employment for Students Transferring from One J-Visa Program Sponsor to Another**

*(TL:VISA-377; 03-29-2002)*

If an exchange visitor intends to transfer program sponsors during the summer months but wants to remain at the current program to work during the summer, the current program sponsor must delay the transfer procedure until after the period of employment. In order to permit the exchange visitor to stay in the current program, the period of employment must be included in the exchange visitor's program noted on the Certification of Eligibility for Exchange Visitor (J-1) Status form.

## **9 FAM 41.62 N7.3 Academic Training (J-Visa) (22 CFR 62.23(f))**

*(TL:VISA-377; 03-29-2002)*

**NOTE:** Only an exchange visitor participating in an Exchange Visitor Program in the "student" category (college and/or university) may participate in academic training.

### **a. Non-Degree and/or Academic Training**

(1) Exchange visitor must be engaged in a full-time prescribed course of study in a non-degree program that may not exceed 24 months, including any authorized academic training.

(2) Academic training must be equal to or less than the period of academic studies (i.e., full-time academic studies is 9 months (classroom instruction); academic training is limited to 9 months maximum).

(3) Academic training must be directly related to the major field of study at the post-secondary accredited educational institution.

### **b. Undergraduate and/or Pre-Doctorate and/or Academic Training**

(1) Exchange visitor is pursuing or completing a full course of study.

(2) Academic training must be directly related to the major field of study at the post-secondary accredited educational institution.

(3) Exchange visitor must have received written approval in advance from the Responsible Officer of the program outlining the duration and type of academic training.

(4) Academic training is limited to a maximum period of 18 months, inclusive of any prior academic training in the U.S. authorized by another J-1 visa program sponsor.

(5) Authorized academic training must be equal to or less than the period of academic studies (i.e., full-time academic studies is 9 months (classroom instruction); academic training is limited to 9 months maximum).

c. Exception: Academic training beyond the proportionate period of academic studies is allowed to the extent necessary for the exchange visitor to satisfy the mandatory requirements of his or her degree program in the U.S. Such exceptions will not extend the maximum period of 18 months academic training (i.e., full-time academic studies is 9 months (classroom instruction) but mandatory requirements of the degree program requires 12 months of academic training). Such exceptions must be documented and approved by the academic dean or advisor and approved by the Responsible Officer.

(1) Academic training can be authorized during and/or after completion of the program.

(2) The Certification of Eligibility for Exchange Visitor (J-1) Status form must be issued for the appropriate period of time, but not to exceed 18 months. Prior to issuing the form, the sponsor shall evaluate the effectiveness and appropriateness of the academic training in achieving the stated goals and objectives in order to ensure the quality of the academic training program.

**NOTE:** Exchange visitors should not be permitted to enter the U.S. more than 60 days prior to the begin date of their program.

d. Post-Doctorate or Academic Training

(1) Academic training must not exceed a total of thirty-six (36) months, inclusive of any prior academic training as an exchange visitor as part of their Undergraduate and/or Pre-Doctorate studies.

(2) Academic training must be directly related to the major field of study at the post-secondary accredited educational institution;

(3) In calculating the permissible period of academic training, the Responsible Officer must ascertain any prior academic training that the exchange visitor has received during their Undergraduate or Pre-Doctoral studies.

(4) The Form 2019, Certification of Eligibility for Exchange Visitor (J-1) Status, must be issued for the appropriate period of time, but not to exceed 18 months. Prior to issuing the form, the sponsor shall evaluate the effectiveness and appropriateness of the academic training in achieving the stated goals and objectives in order to ensure the quality of the academic training program.

e. Procedures for Obtaining Authorization to Engage in Academic Training Prior to issuing a Form DS-2019 to an exchange visitor to engage in authorized academic training, a Responsible Officer should obtain from the exchange visitor a letter of recommendation from the student's academic dean or advisor setting forth:

- (1) The goals and objectives of the specific training program;
- (2) A description of the training program, including:
  - (a) The location;
  - (b) The name and address of the training supervisor;
  - (c) The number of hours per week; and
  - (d) The dates of the training.
- (3) How the training relates to the student's major field of study; and,
- (4) That the academic training is an integral or critical part of the academic program (classroom instruction) of the student.

f. In addition, the Responsible Officer shall and/or must:

- (1) Determine if, and to what extent, the student had previously participated in academic training as an exchange visitor student. This must be done to ensure that the student does not exceed the period of academic training permitted in 22 CFR 62.23(f) of the Exchange Visitor Program regulations.

- (2) Review the letter received from the exchange visitor from the student's academic dean or advisor and;

- (3) Make a written determination whether the academic training being requested is warranted and that the criteria and time limitations established in the Exchange Visitor Regulations (22 CFR 62.23(f)(3) and (4)) are satisfied.

g. Evaluation Requirements: The sponsor shall and/or must evaluate the effectiveness and appropriateness of the academic training in achieving the stated goals and objectives in order to ensure the quality of the academic training program.

## **9 FAM 41.62 N7.4 Employment of Professors/Research Scholars**

*(TL:VISA-377; 03-29-2002)*

a. It is the responsibility of the RO to advise exchange visitors of the restrictions that may be placed on their activities; the limitations of their employment; and, opportunities they may or may not be eligible to pursue while in the United States.

b. Permission for a professor and/or research scholar to undertake outside employment is granted only if the employment is incidental to the exchange visitor's primary program activity (i.e., occasional in nature; relates to the visitor's original program objective; does not interfere with that objective by delaying the completion date of the exchange visitor's program; and, will enhance the exchange visitor's experience while visiting the United States). In addition, the outside employment cannot be used to supplement the financial support of the exchange visitor.

### **9 FAM 41.62 N7.4-1 Occasional Lecturers, Seminars or Consultations (22 CFR 62.20(g))**

*(TL:VISA-507; 12-11-2002)*

Responsible Officers can authorize professors and research scholars to engage in occasional lecturers, seminars, or consultations at locations not listed on the Form DS-2019, Certification of Eligibility for Exchange Visitor (J-1) Status, if the activities are related to the objective of the exchange visitor's program participation.

### **9 FAM 41.62 N7.4-2 Fellowships for Research Scholars and Professors**

*(TL:VISA-377; 03-29-2002)*

a. With respect to fellowship awards and the administration of the J-1 program, the Department has determined:

(1) If an exchange visitor comes to the United States on a fellowship, a J-1 visa is appropriate only if the fellowship is for no longer than three years or unless it is an exchange activity previously approved by the Department in accordance with 22 CFR 62.20(i)(2).

(2) If an exchange visitor comes to the United States as a participant in an Exchange Program and is awarded a fellowship, the exchange visitor remains subject to the three-year limitation on program duration.

(3) If an exchange visitor comes to the United States as a participant in an Exchange Program and is awarded a fellowship at the end of the program, the sponsor may wish to advise the exchange visitor that the Department would consider the fellowship to be a “new” program. The Department would not grant an extension in this instance unless the activity was in the national interest of fully supported by government funds.

## **9 FAM 41.62 N8 Extension of Program (22 CFR 62.43)**

*(TL:VISA-377; 03-29-2002)*

a. An RO/ARO may extend an exchange visitor’s participation in the Exchange Visitor Program up to the maximum duration of participation for the category in which they are participating.

b. The maximum duration of stay for the categories is as follows:

(1) Category of Exchange Visitor Maximum Duration of Participation (Duration of Stay)

**NOTE:** (Please refer to 9 FAM 41.62 N3 for specific information relating to the category of visitor.)

(2) Alien physician - limited to seven (7) years

(3) Au pair - one (1) year only, no repeats

(4) Camp counselor - not to exceed four (4) months

(5) Government visitor - not to exceed eighteen (18) months

(6) International visitor - not to exceed one (1) year

(7) Professor - not to exceed three (3) years

(8) Research scholar - not to exceed three (3) years

(9) Short-term scholar - not to exceed six (6) months

(10) Specialist - not to exceed one (1) year

(11) Student:

(a) Secondary school student - minimum one semester; Maximum: Not to exceed one academic year;

(b) College and/or university student - refer to 9 FAM 41.62 N2 Student (B) for specific information;

- (c) Summer work and/or travel not to exceed four (4) months;
- (d) Teacher -not to exceed three (3) years;
- (e) Trainee - not to exceed eighteen (18) months; or
- (f) Flight trainee - not to exceed twenty-four (24) months

**9 FAM 41.62 N8.1 Discretionary Six-Month Extensions Beyond Maximum Period of Participation for Professor or Research Scholar**

*(TL:VISA-377; 03-29-2002)*

Program sponsors have a discretionary six-month extension beyond the maximum duration of participation for the professor and research scholar categories. This six-month extension can be granted by the RO/ARO, without the prior approval of the Department, when a determination has been made that the extension is necessary in order for the professor or research scholar to complete the specific project or research activity for which they entered the U.S. and prepare to return to the home country.

**NOTE:** This extension should not be granted by the RO or ARO if the exchange visitor is no longer in valid program status (after the expiration of the end date on the Form 2019, Certification of Eligibility for Exchange Visitor (J-1) Visa Status ).

**9 FAM 41.62 N8.2 Requests for Extensions beyond the Maximum Duration of Participation**

*(TL:VISA-377; 03-29-2002)*

An RO or ARO seeking to extend the participation of an exchange visitor “beyond” the maximum duration of participation for the category in which the exchange visitor is participating must submit a request to the Exchange Visitor Program Designation office, Bureau of Educational and Cultural Affairs (ECA/GCV) for approval. In addition, the RO or ARO must secure the prior written approval of the Department for an extension of the program.

### **9 FAM 41.62 N8.3 Department's Policy on Extension of Program Participation While a Waiver of the Two-year Home-Residency Requirement is Pending**

*(TL:VISA-377; 03-29-2002)*

Once an RO or ARO is notified by the Department that a favorable recommendation to the Immigration and Naturalization Service (INS) regarding a waiver request, the exchange visitor is no longer considered eligible for an extension beyond the end date shown on the current Form DS-2019, Certification of Eligibility for Exchange Visitor (J-1) Status, even though he or she may not have completed the maximum duration of participation permitted for the category. However, if a waiver request is submitted and denied, the exchange visitor is considered to be within the maximum duration of participation and an extension may be issued up to the maximum duration permitted for that category.

### **9 FAM 41.62 N8.4 Twelve-Month Bar**

*(TL:VISA-377; 03-29-2002)*

a. The twelve-month bar applies to all potential and current exchange visitors (including J-2 dependents) who are being considered for the "research scholar" and "professor" category. For clarification purposes, some examples follow:

(1) Let's assume that an RO intends to issue a Form 2019, Certification of Eligibility for Exchange Visitor (J-1) Status, to begin a new program in the research scholar or professor category and the start date for the program is January 1, 2000. The RO must ascertain whether the prospective exchange visitor has been physically present in the United States during the twelve (12) month period preceding January 1, 2000 (i.e., January 1, 1998 through December 31, 1999). An individual in the "short-term scholar" would not be blocked by the twelve-month bar because of the specific exemption to the bar set forth in 22 CFR 62.20(d)(ii)(C).

(2) If during the same twelve (12) month period (January 1, 1998 through December 31, 1999) the individual was physically present in the U.S. for less than six (6) months in any category other than "short-term scholar," he or she would not be subject to the twelve (12) month bar because of the exemption set forth in 22 CFR 62.20(d)(ii)(B).

(3) However, if this individual has been physically present in the U.S. for more than six months in any category (or combination of categories) pursuant to participation in one or more J-visa programs, other than "short-term scholar," he/she is subject to the twelve (12) month bar because neither of the exemptions set forth in (22 CFR 62.20(d)(ii)(B) or (C) apply.

**Example:** The exchange visitor who participates in two programs during the twelve (12) months immediately preceding the start date of an intended program (and is therefore physically present in the U.S.) in the research scholar or professor category, the duration of which totals more than six months is subject to the bar because they were in the U.S. For more than six months (22 CFR 62.20(d)(ii)(B)).

## **9 FAM 41.62 N9 Change of Category (22 CFR 62.41)**

*(TL:VISA-377; 03-29-2002)*

Assignment of “categories” for participants entering the U.S. on the J-visa is one of the most distinguishing characteristics of the program and a prominent part of the sponsors’ screening and selection process. Sponsors must determine the exchange visitor’s eligibility and primary activity prior to the issuance of the Form DS-2019, Certification of Eligibility for Exchange Visitor (J-1) Status. The categories identified in 9 FAM 41.62 establish the purpose and type of activity for which the exchange visitor comes to the U.S. The intent of the Mutual Educational and Cultural Exchange Act is that exchange visitors come to the U.S. for a specific program objective and upon completion of that objective, return to their home country to use their newly acquired and/or enhanced skills to benefit their home country. A “change of category,” which is a change of purpose, is in itself - extraordinary.

### **9 FAM 41.62 N9.1 Requests for a Change of Category**

*(TL:VISA-377; 03-29-2002)*

Program sponsors must submit a request for a change of category to the Exchange Visitor Program Designation office, Bureau of Educational and Cultural Affairs (ECA/GCV) for approval. The Department recognizes that some changes of category may, on occasion, benefit both the exchange visitor and the Exchange Visitor Program. Therefore, the regulations provide the discretion of the Department to permit a change of category. However, the standards for shifting purpose and activities must be clearly consistent and closely related to the exchange visitor’s original exchange objective and is authorized because of unusual or exceptional circumstances to warrant such a request and change. Requests that are approved by the Department would be approved in writing.

**NOTE:** As the Exchange Visitor Program regulations contain provisions for changing an exchange visitor's category, the Department considers it a "circumvention of the regulations" for a sponsor to issue a Form DS-2019, Certification of Eligibility for Exchange Visitor (J-1) Status to an individual who has previously participated in an exchange program; altering/changing the category in which they are participating; and providing guidance to the exchange visitor when leaving the U.S. to apply for a new visa. Post should be aware.

## **9 FAM 41.62 N10 Transfer of Program (Sponsors) (22 CFR 62.42)**

*(TL:VISA-377; 03-29-2002)*

a. Pursuant to the provisions established in the regulations, program sponsors may permit an exchange visitor to transfer from one designated program to another while within the maximum duration of program status (stay) designated program. The RO or ARO of the receiving program sponsor shall verify the exchange visitor's status and program eligibility; complete a Form DS-2019, Certification of Eligibility for Exchange Visitor (J-1) Status; and, secure the written release of the current sponsor by having them sign Block 8 of the Certification issued for transfer of programs. Upon receipt of the form containing the signature of the RO or ARO of the releasing program sponsor, the RO or ARO of the receiving program sponsor is to provide the exchange visitor with the "pink" copy of the Certification of Eligibility as well as to forward the "yellow" copy to the Exchange Visitor Program Designation, Bureau of Educational and Cultural Affairs (ECA/GCV) if done in the U.S.

b. In addition, the transfer can only take place while the exchange visitor is in valid program status, that is, prior to the end date on the current Certification of Eligibility or before an exchange visitor completes, concludes, ceases, interrupts, graduates from, or otherwise terminates their course of study or exchange visitor program—whichever occurs sooner.

**NOTE:** Incomplete Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status ,should not be given to the exchange visitor.

## **9 FAM 41.62 N11 Thirty-Day (30) Grace Period/Travel Status**

*(TL:VISA-377; 03-29-2002)*

a. The United States Immigration and Naturalization Service (INS) and the former United States Information Agency (USIA) (now considered to be the United States Department of State) signed a Memorandum of Understanding (MOU) on September 24, 1993. Pursuant to that MOU, it was agreed that J-visa exchange visitors, upon entry into the United States would be issued Form I-94 marked "D/S." This document, along with a valid Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status, documents the valid nonimmigrant program status of an exchange visitor participant.

b. The initial admission of the exchange visitor is not to exceed the period specified on the Certificate of Eligibility (the begin and end dates in Item 2 of the Certification), plus a period of thirty days "for the purpose of travel" (8 CFR 214.2(j)). The INS, not the Department, established this 30-day "travel status period "or" grace period. The Department has concluded that the 30-day grace or travel status period was intended to be a period following the end of the exchange visitor's program and is to be used for domestic travel and/or to prepare for and depart from the U.S., and for no other purpose. A program extension and/or transfer can only be issued during the period of time that the exchange visitor is in valid program status (i.e., prior to the end date on the most current Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status. RO or AROs are precluded from extending or transferring an exchange visitor's program during the 30-day grace period or out of valid program status.