

Student (F and M Visa) and Exchange Visitor (J Visa) Annual Update

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FM SECSTATE WASHDC
TO ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE
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SUBJECT: STUDENT (F AND M VISA) AND EXCHANGE VISITOR (J VISA) ANNUAL UPDATE

REF: (A) 07 STATE 103891, (B) 07 STATE 31754, (C) 07 STATE 27456, (D) 07 STATE 4104

1. ECA/EC has cleared this cable.

2. Summary: This is the annual update of student and exchange visitor visa issues. Please be sure your post has a clear procedure in place for expediting F, M, and J appointments and that this procedure is prominently placed on post's website. The SEVIS record is the definitive record of a student's or exchange visitor's selection/eligibility for an F, M, or J program. The SEVIS record should be checked for each case. Kudos to posts for their hard work in setting appropriate Summer Work and Travel (SWT) program dates; you may wish to consider providing an emergency contact card to SWT participants and verifying job offers. Both procedures help to minimize SWT program abuse. This cable also clarifies some of the information on Form DS-2019, and reminds posts about required annotations and the end of requirements to put DS-2019 forms in sealed envelopes. There is also a brief summary of the changes in J-1 sponsor sanctions procedures. We appreciate all you do to facilitate the travel of qualified international students and exchange visitors. End Summary.

MAKE STUDENTS AND EXCHANGE VISITORS YOUR PRIORITY

3. Reftels reiterated our guidance to ensure you have a procedure in place for expediting student and exchange visitor visa applications. Whenever possible, every applicant should be able to receive an appointment before his/her program starts. You can certainly give first-time applicants the highest priority, and schedule repeat applicants on a lower-priority tier. Make sure your call center, offsite fee payment center, and/or your website clearly communicate student and exchange visitor applicant procedures, as well as procedures for emergency appointments.

COMMUNITY COLLEGE AND ENGLISH LANGUAGE STUDENTS

4. You may wish to read SOP 17, which provides a useful summary of FAM guidance for adjudicating officers. As 9 FAM 41.61 N 2.3 says, "Consular officers may appropriately consider the usefulness of a degree from a community college or lesser-known university, (or from any university) in the local context. Attendance, however, at a lesser-known college or university is not, in itself, a ground of ineligibility, and applicants cannot be refused a visa for that reason." 9 FAM 41.61 N6.4 reminds officers that the fact that an ESL or other education program is available locally is not in itself grounds for refusing an applicant. Officers should look at each applicant's plans for their U.S. study and the applicant's fit to the program to determine eligibility and intent to return abroad, and not base decisions solely on school choice.

REMINDER: SEVIS RECORD IS FINAL RECORD

5. As noted in Ref C, you should always check SEVIS before issuing an F, M, or J visa. The SEVIS record is the definitive record that a Department of Homeland Security certified entity (F and M student visa - Form I-20) or a Department of State designated Exchange Visitor Program sponsor (J visa - Form DS-2019) has selected the applicant and verified their eligibility for that status. The CCD SEVIS check has additional fields, including a comment field, so posts can see any remarks the school advisor or program sponsor has added.

A helpful guide to reading the SEVIS screen can be found on the CA/VO Intranet site at:
<http://intranet.ca.state.gov/@res/documents/rx/reference/SEVIS%20screen%20reading.doc>

REQUESTING INFORMATION ABOUT "SEVI" HITS

6. Ref C provided guidance to post about requesting a SEVI hit be deleted. In these cases, that information

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will be annotated in the ICE system and the lookout record will be flagged for removal. This flag removal process is automated, and may take a week or more to process.

SUMMER WORK AND TRAVEL

7. Refs B and D clarified guidance on setting program and return dates for J-1 Summer Work and Travel (SWT) participants. Posts have done an outstanding job at researching and defining summer vacation dates in their countries and working with the exchange visitor sponsors to communicate that no program can extend into that country's school year. Your enforcement of these policies has made the SWT program more consistent and secure. Please also remember that, for validation study purposes, SWT participants, like all J participants, have a 30-day grace period during which they may remain in the U.S. after their program ends. Therefore, any validation study must take this authorized grace period into account (see 9 FAM 41.62 N9.4).

8. Some SWT participants may have a difficult time finding a job placement once they arrive in the United States, or have concerns about their work conditions. Embassy Bucharest hands out contact cards to each SWT traveler with the contact information for their Embassy in the U.S. You may also wish to consider adding the ECA general contact number, and a reminder that SWT participants should know the contact information of their U.S.-based sponsor (which is located in Box 2 of Form DS-2019 - see below). Providing this information to travelers also makes them less vulnerable to exploitation.

9. Another way to minimize SWT abuse is to verify job offers for SWT applicants who have them. SWT regulations do not require an applicant to have a job offer before their program starts, but if an applicant has a job offer it gives the application a higher level of credibility and it is appropriate to investigate if indicated when adjudicating the application. It is important to ensure post's anti-fraud measures stay within the parameters established by regulations. Post must allow any applicant with a valid Form DS-2019 to apply for a visa. However, post can emphasize that those applicants with verifiable placements and reliable sponsors are more likely to establish eligibility for visas. In addition, if post is aware that a foreign organization promised jobs but failed to place previous applicants upon arrival, post can ask the U.S. sponsor to confirm the job offer. A list of all designated Exchange Visitor Program sponsors with point of contact information, by category, can be found on the ECA website at <http://exchanges.state.gov/education/jexchanges>.

10. A number of posts have voiced concerns that the local third-party contractors of SWT designated sponsors are violating SWT rules by accepting bribes, falsifying documents, or charging applicants for job offers that they reuse. Each local SWT agent must be affiliated with a U.S.-based sponsor, which could lose their authorization to be an exchange sponsor if these practices become known. We encourage you to share information about misconduct by local sponsors with FPP, VO/F/P, and the ECA Compliance Unit so that ECA can investigate and sanction as appropriate(email: jvisas@state.gov). This e-mail address can also be used for inquiries concerning J visa regulatory and program issues.

CLARIFICATION ON DS-2019 FORM

11. ECA/EC provided the following clarifying information regarding the text in Box 2 of the Form DS-2019 (sponsor information) and Box 4 (exchange visitor information).

12. Box 2 - Participating Program Official Description. This box contains information relative to the sponsor's designation. All exchange visitor program categories authorized by the Department of State at time of designation (whether one category or more) prints on each SEVIS-generated Form DS-2019. In addition, any limitation or restriction as identified by the Department will also print here. For example, a sponsor authorized the category of Trainee, which has a maximum duration of 18 months, except for the occupational category of

Hospitality and Tourism, which is limited to 12 months, would contain language similar to the following:
Trainee,

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Hospitality/Tourism NTE 12 months. In the case of the new 12-month Summer Work/Travel Pilot Programs for Australia and New Zealand, this section would state: Summer Work Travel, NZ and AS 12-Month Work and Travel Pilot Program.

13. Box 4 - Exchange Visitor Category. This box contains the authorized exchange visitor category in which the foreign national is a participant (e.g., Trainee; Summer Work/Travel; Au Pair; Student, Associate; etc.), and the Subject/Field Code that the sponsor identifies from the "Classification of Instructional Programs (CIP 2000)" utilized in SEVIS. Access to the CIP code listing is available through <http://nces.ed.gov/pubs2002/cip2000/ciplist.asp>. The code number (i.e., 52.0208) followed by Subject/Field Code Remarks are entered by the sponsor.

ANNOTATIONS AND ENVELOPES

14. 9 FAM 41.61 N15 and 9 FAM 41.62 N9 discuss appropriate annotations for F, M, and J visas. You should annotate all visas with the SEVIS ID of the traveler and the sponsor program or school name in which they will be participating or attending. For J visas, you should also annotate the visa with the program number and note whether the traveler is subject to INA 212(e). Also, remember that, for F and M travelers, the name of the school on the visa must match the name of the school on Form I-20 for an initial entry on that visa.

15. In addition, as mentioned in the December 2007 Consular Issues Cable, some posts continue to put I-20s or DS-2019s in envelopes and staple them to applicants' passports after the visa is issued. There is no procedural requirement for this, and we recommend posts cease this procedure as it expends extra time and wastes resources. Of course, travelers should be reminded that they must present Form DS-2019 or I-20 at the POE in order to be admitted.

CHANGES TO J SPONSOR SANCTIONS

16. New Exchange Visitor Program (EVP) Sanction Regulations (22 CFR 62.50) and new Termination of Designation and Revocation of Program Regulations (22 CFR 62.60 - 62.63) became effective January 22, 2008. Here are some of the major changes in the sanction and termination process.

-- Sponsors who were at risk of losing their program designations will have their cases heard through a paper review instead of an in-person review.

-- A revised suspension process would freeze sponsors' operations for 120 days while their qualifications are under review.

-- A new provision allows the Department to terminate an entire class of designated exchange visitor program sponsors if it believes specific programs, sponsors, exchange visitor category(ies), and/or activities compromise the national security of the United States or no longer further the Department's public diplomacy mission.

-- Sponsors on whom ECA imposes lesser sanctions are no longer allowed to appeal.

THANK YOU

17. We appreciate all of the work you do to facilitate the travel of legitimate F, M and J applicants as well as the effort you put into fraud prevention and program verification. Your efforts are paying off, as we issued a record 651,000 student and exchange visitor visas in FY 2007. Additional data about foreign students and American exchange students can also be found at <http://opendoors.iienetwork.org/>.

18. 9 FAM 41.61 and 41.62 will be updated as appropriate and sent septel.

19. Minimize considered.

RICE
