

## Department of State

## § 62.20

### § 62.15 Annual reports.

Sponsors shall submit an annual report to the Department of State. An illustrative form of such report may be found at Appendix D to this part. Such report shall be filed on an academic or calendar year basis, as directed by the Department of State, and shall contain the following:

(a) *Program report and evaluation.* A brief summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness;

(b) *Reciprocity.* A description of the nature and extent of reciprocity occurring in the sponsor's exchange visitor program during the reporting year;

(c) *Cross-cultural activities.* A summary of the cross-cultural activities provided for its exchange visitors during the reporting year;

(d) *Proof of insurance.* Certification of compliance with insurance coverage requirements set forth in § 62.14.

(e) *Form DS-2019 usage.* A report of Form DS-2019 usage during the reporting year setting forth the following information:

(1) The total number of blank Forms DS-2019 received from the Department of State during the reporting year;

(2) The total number of Forms DS-2019 voided or destroyed by the sponsor during the reporting year and the document numbers of such forms;

(3) The total number of Forms DS-2019 issued to potential exchange visitors that were returned to the sponsor or not used for entry into the United States; and

(4) The total number and document identification number sequence of all blank Forms DS-2019 in the possession of the sponsor on the date of the report.

(f) *Program participation.* A numerical count, by category, of all exchange visitors participating in the sponsor's program for the reporting year.

(g) *Redesignation.* Sponsors may indicate their desire for redesignation, pursuant to § 62.7, by marking the appropriate box on their annual report.

### § 62.16 Employment.

(a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee for em-

ployment when such activities are part of the exchange visitor's program.

(b) 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 in an exchange visitor program.

(c) The acceptance of employment by an accompanying spouse or minor child of an exchange visitor is governed by Immigration and Naturalization Service regulations.

### § 62.17 Fees and charges.

(a) *Remittances.* Fees prescribed within the framework of 31 U.S.C. 9701 must be submitted as directed by the Department and must be in the amount prescribed by law or regulation.

(b) *Amounts of fees.* The following fees are prescribed for Fiscal Years 2008–2009 (October 1, 2007–September 30, 2009):

(1) For filing an application for program designation and/or redesignation (Form DS-3036)—\$1,748.

(2) For filing an application for extension beyond the maximum duration, change of category, reinstatement, reinstatement-update SEVIS status, ECFMG-sponsorship authorization, and permission to issue—\$246.

[72 FR 61801, Nov. 1, 2007]

## Subpart B—Specific Program Provisions

### § 62.20 Professors and research scholars.

(a) *Introduction.* These regulations govern Exchange Visitor Program participants in the categories of professor and research scholar, except:

(1) Alien physicians in graduate medical education or training, who are governed by regulations set forth at § 62.27; and

(2) Short-term scholars, who are governed by regulations set forth at § 62.21.

(b) *Purpose.* The purpose of the Exchange Visitor Program, in part, is to foster the exchange of ideas between Americans and foreign nationals and to stimulate international collaborative teaching, lecturing and research efforts. The exchange of professors and

research scholars promotes the exchange of ideas, research, mutual enrichment, and linkages between research and educational institutions in the United States and foreign countries. It does so by providing foreign professors and research scholars the opportunity to engage in research, teaching and lecturing with their American colleagues, to participate actively in cross-cultural activities with Americans, and ultimately to share with their countrymen their experiences and increased knowledge of the United States and their substantive fields.

(c) *Designation.* The Department of State may, in its sole discretion, designate *bona fide* exchange visitor programs, which offer foreign nationals the opportunity to engage in research, teaching, lecturing, observing, or consulting at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions in the United States.

(d) *Visitor eligibility.* An individual may be selected for participation in the Exchange Visitor Program as a professor or research scholar subject to the following conditions:

(1) The participant must not be a candidate for a tenure track position;

(2) The participant has not been physically present in the United States as a nonimmigrant pursuant to the provisions of 8 U.S.C. 1101(a)(15)(J) for all or part of the twelve-month period immediately proceeding the date of program commencement set forth on his or her Form DS-2019, unless:

(i) The participant is transferring to the sponsor's program pursuant to provisions set forth in § 62.42;

(ii) The participant's presence in the United States was of less than six months duration; or

(iii) The participant's presence in the United States was pursuant to a short-term scholar exchange activity as authorized by § 62.21; and

(3) The participant is not subject to the prohibition against repeat participation set forth at § 62.20(i)(2).

(e) *Issuance of Form DS-2019.* The Form DS-2019 must be issued only after the professor or research scholar has been accepted by the institution where

he or she will participate in an exchange visitor program.

(f) *Location of the exchange.* Professors or research scholars must conduct their exchange activity at the site(s) of activity identified in SEVIS, which may be either the location of the exchange visitor program sponsor or the site of a third party facilitating the exchange with permission of the Responsible Officer. An exchange visitor may also engage in activities at other locations if such activities constitute occasional lectures or consultations permitted by paragraph (g) of this section. All such sites of activity must be entered into SEVIS while the exchange visitor's SEVIS record is in Initial or Active status.

(g) *Occasional lectures or consultations.* Professors and research scholars may participate in occasional lectures and short-term consultations, if authorized to do so by his or her sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274a.1(j), and the following criteria and procedures must be satisfied:

(1) *Criteria.* The occasional lectures or short-term consultations must:

(i) Be directly related to the objectives of the exchange visitor's program;

(ii) Be incidental to the exchange visitor's primary program activities;

(iii) Not delay the completion date of the exchange visitor's program; and

(iv) Be documented in SEVIS.

(2) *Procedures.* (i) To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor must present to the responsible officer:

(A) A letter from the offeror setting forth the terms and conditions of the offer to lecture or consult, including the duration, number of hours, field or subject, amount of compensation, and description of such activity; and

(B) A letter from the exchange visitor's department head or supervisor

recommending such activity and explaining how the activity would enhance the exchange visitor's program.

(ii) The responsible officer must review the letters required in paragraph (g)(2)(i) of this section and make a written determination whether such activity is warranted, will not interrupt the exchange visitor's original objective, and satisfies the criteria set forth in paragraph (g)(1) of this section.

(h) *Change of activity.* At the discretion and approval of the responsible officer, professors may freely engage in research and research scholars may freely engage in teaching and lecturing. Because these activities are intertwined, such a change of activity is not considered a change of category necessitating formal approval by the Department of State and does not require the issuance of a new Form DS-2019 to reflect a change in category. Such change in activity does not extend the exchange visitor's maximum duration of program participation.

(i) *Duration of participation.* The permitted duration of program participation for a professor or research scholar is as follows:

(1) *General limitation.* A professor or research scholar may be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete his or her program, provided such time does not exceed five years. The five-year period of permitted program participation is continuous and begins with the initial program begin date documented in SEVIS or the date such status was acquired via a petition submitted and approved by the Department of Homeland Security (DHS) as documented in SEVIS and ends five years from such date.

(2) *Repeat participation.* Exchange participants who have entered the United States under the Exchange Visitor Program as a professor or research scholar, or who have acquired such status while in the United States, and who have completed his or her program are not eligible for participation as a professor or research scholar for a period of two years following the end date of such program participation as identified in SEVIS.

(3) *Extensions.* A responsible officer may not extend the period of program

duration beyond the five-year period of maximum program duration authorized for professor and research scholar participants. The Department may, in its sole discretion, authorize an extension beyond the permitted five-year period, as submitted by a "G-7" program sponsor, upon successful demonstration of the following:

(i) The participant for whom an extension is requested is engaged in a research project under the direct sponsorship of a Federally Funded National Research and Development Center ("FFNRDC") or a U.S. Federal Laboratory;

(ii) The FFNRDC or U.S. Federal Laboratory requesting the extension on behalf of the participant has determined, through peer review, that the participant's continued involvement in the project is beneficial to its successful conclusion; and

(iii) The Secretary of the Department of Homeland Security has determined in his/her discretion that the extension may be approved;

(iv) The extension request is for not more than five years.

[70 FR 28817, May 19, 2005; 70 FR 36344, June 23, 2005]

#### § 62.21 Short-term scholars.

(a) *Introduction.* These regulations govern scholars coming to the United States for a period of up to four months to lecture, observe, consult, and to participate in seminars, workshops, conferences, study tours, professional meetings, or similar types of educational and professional activities.

(b) *Purpose.* The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American scholars. It does so by providing foreign scholars the opportunity to exchange ideas with their American colleagues, participate in educational and professional programs, confer on common problems and projects, and promote professional relationships and communications.

(c) *Designation.* The Department of State may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to engage in short-term visits for the purpose of lecturing, observing, consulting, training, or demonstrating