



**U.S. Department of State
Bureau of Educational and Cultural Affairs
Private Sector Exchange**



June 8, 2023

Guidance Directive 2023-01

Clarifying guidance regarding exchange visitor participation in host organizations' remote policies or enrollment in online classes.

This Guidance Directive addresses the types of exchange visitor programming permitted to satisfy the Exchange Visitor Program (EVP) requirements under 22 CFR Part 62. ECA recognizes that the joint resolution terminating the [COVID-19 national emergency](#) was signed into law by President Biden on April 10, 2023, and the federal Public Health Emergency for COVID-19 expired on May 11, 2023.¹ While the COVID-19 pandemic necessitated shifting some programs temporarily to virtual programming, ECA reminds sponsors that the Exchange Visitor Program is designed to increase mutual understanding by means of educational and cultural exchange. ECA is ending its policy permitting the temporary modifications of exchange visitor programs in response to the COVID-19 pandemic, effective July 1, 2023. As of this date, all ECA exchange programs are expected to comply with category regulations of 22 CFR Part 62, as explained herein, and to return to *predominantly* in-person program activities. This Guidance Directive supersedes any prior guidance on this topic.

As established in 22 CFR 62.1(b), “The purpose of the [Exchange Visitor] Program is to provide foreign nationals with opportunities to participate in educational and cultural programs in the United States” The Department uses this opportunity to remind sponsors that program activities, regardless of in-person or virtual participation, must be conducted in the United States, apart from when the exchange visitors are on an official break (e.g., academic calendar summer break) or in “Out of Country” status applicable to professors and research scholars in active status.

The regulations define “site of activity” as the physical, geographic location(s) where an exchange visitor participates in his or her exchange program. Additionally, several categories refer to the participation of an exchange visitor “at” their site of activity. 22 CFR 62.20(f), 22 CFR 62.21(f), 22 CFR 62.23(f)(3)(ii), 22 CFR 62.23(h)(1)(i), 22 CFR 62.23(h)(2)(i), 22 CFR 62.23(i)(1)(iii), 22 CFR 62.26(h), 22 CFR 62.31(f)(3). Other category regulations are ambiguous on the topic of virtual programming and have created uncertainty as to whether any virtual program activities are allowed. The Department uses this opportunity to clarify how it will interpret the regulations in the context of hybrid or virtual work and learning.

ECA acknowledges that most of the current EVP regulations were promulgated prior to the widespread availability of remote learning or work. ECA recognizes that some host entities in recent years have

¹ H.J.Res. 7, 118th Cong. (2023); *End of the Federal COVID-19 Public Health Emergency (PHE) Declaration*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/your-health/end-of-phe.html>.

shifted to hybrid work/school environments that are based on telework or virtual participation in addition to in-person activities.

Beginning July 1, 2023, ECA will consider exchange visitor programs in the following categories as operating consistent with the purpose and requirements of the EVP if the exchange visitor participates remotely no more than 40% of the time (e.g., two days out of five) when their host organizations have instituted partial remote policies and their sponsor has approved their hybrid program participation: Professors and Research Scholars, Short-term Scholars, Trainees and Interns, College and University Students who are participating in Academic Training or the Student Intern subcategory, and Specialists.² To achieve the objectives of the program categories, exchange visitors in the Government Visitor, International Visitor, Alien Physician, Summer Work Travel, Camp Counselor, Teacher, Secondary School Student, and Au Pair categories are required to report in-person full-time to their site(s) of activity. ECA notes that the environments of these categories typically do not involve regular hybrid schedules. Secondary school students and exchange teachers are expected to participate in full-time in-person exchange programs unless the host school authorizes hybrid activities due to a temporary emergency. Sponsors should report such situations to the Department under 22 CFR 62.13(d).

College and university students and au pairs may engage in a maximum of one online course per semester. Further, college and university students may take in-person classes with virtual components. Hybrid classes that predominantly require in-person student attendance would be considered in-person courses.

As established in 22 CFR 62.10(d), sponsors are expected to monitor their exchange visitors' progress to ensure they have the resources they need, adequate supervision, and that the objectives and educational and cultural requirements of the programs are being met in any hybrid environment.

Secondary School Student and Au Pair In-Person Monitoring

Local Coordinators in the Secondary School Student and Au Pair categories must resume in-person monitoring, as appropriate to the category.

Sponsor Responsibilities

Sponsors must clearly indicate all applicable sites of activity of an exchange visitor while on program to include locations when an exchange visitor is engaged in remotely, e.g., the exchange visitor's U.S. home address. Sponsors must continue to update SEVIS with any changes to an exchange visitor's primary site of activity within 10 calendar days as required to be reported by exchange visitors in 22 CFR 62.10(d)(3) and within 10 business days as detailed for sponsors in 22 CFR 62.10(d)(4). Sponsors are expected to report to the Department any situations that require an exchange visitor to engage remotely beyond the 40% maximum threshold, consistent with 22 CFR 62.13(d).

² Exchange visitors in active status on or before June 30, 2023, may continue hybrid programs up to December 31, 2023. New exchange visitors with a program begin date on July 1, 2023, or thereafter are expected to adhere to this Guidance Directive.

At the time of recruitment and before exchange visitors enter into agreements, sponsors should clarify any site of activity telework policies that would apply to the exchange visitor's program, as detailed in 22 CFR 62.9(d)(3).

In the event of temporary emergencies (e.g., inclement weather, public health threats, or facility closures), to ensure their health, safety, and welfare, all exchange visitors may temporarily avail themselves of virtual program options in the United States as required by their hosts at the sites of activity. Once an exchange visitor is safely in a remote location, they must notify and secure their sponsors' approval.

If you have questions about this directive or site of activity eligibility in general, please contact the Office of Private Sector Exchange Designation at JVisas@state.gov.

A handwritten signature in blue ink, appearing to read 'M. Howard', enclosed within a thin black rectangular border.

Mark Howard
Director
Office of Private Sector Exchange Program Administration