



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

February 23, 2017

Guidance Directive 2017-01

Reinforcing the primary objectives and enhancing monitoring of 22 CFR 62.22 (Trainees and Interns): Regulatory prohibition of unskilled or casual labor positions

22 CFR 62.22(b)(1)(ii) (*Purpose*) states: *Exchange Visitor Program training and internship programs must not be used as substitutes for ordinary employment or work purposes; nor may they be used under any circumstances to displace American workers. The requirements in these regulations for trainees are designed to distinguish between bona fide training, which is permitted, and merely gaining additional work experience, which is not permitted. The requirements in these regulations for interns are designed to distinguish between a period of work-based learning in the intern's academic field, which is permitted (and which requires a substantial academic framework in the participant's field), and unskilled labor, which is not.*

The Office of Private Sector Exchange values its partnership with sponsors and their commitment to ensuring that trainees and interns have positive exchange experiences. Through these partnerships, our programs greatly impact local and global communities and allow us to promote mutual understanding between the peoples of the United States and other countries. In the spirit of this partnership and our shared interest in program success, this Guidance Directive seeks to communicate concerns regarding inappropriate exchange visitor placements and asks sponsors to increase their monitoring to ensure placements in the trainee and intern categories are in compliance with 22 CFR 62.22.

The Exchange Visitor Program regulations establish the primary objectives of the training and internship programs at 22 CFR 62.22(b)(1)(i): to enhance the skills and expertise of exchange visitors in their academic or occupational fields through structured and guided work-based training and internship programs and to improve participants' knowledge of American techniques, methodologies, and technology. Such programs are also intended to increase participants' understanding of American culture and society, and to enhance Americans' knowledge of foreign cultures and skills through an open interchange of ideas between participants and their U.S. associates. The training and internship programs, therefore, must only be used by sponsors (and any host organizations they utilize) for *bona fide training or work-based learning*, not to have exchange visitors perform ordinary work.

Sponsors are reminded that 22 CFR 62.22(b)(1) makes an explicit regulatory distinction between work-based learning, which is permitted, and unskilled and casual labor, which is prohibited. Under 22 CFR 62.22(j), sponsors must not place trainees or interns in unskilled or casual labor

positions. [Appendix E](#) to 22 CFR Part 62 includes a list of occupations considered to be unskilled in reference to the former trainee regulation (22 CFR 514.22(c)(1)). The Office considers this list of unskilled occupations to be illustrative of the types of occupations that constitute unskilled labor positions within the meaning of 22 CFR 62.22(j).

The Office has received reports of exchange visitors allegedly placed in unskilled or casual labor positions (e.g., assistant servers, food bussers, food runners, hotel cleaners, pool attendants). This work appears to be aimed principally or exclusively at satisfying host site staffing needs. Although these reports frequently involve placements in hospitality and tourism, the Office is seeking **increased sponsor monitoring** across all occupational sub-categories in the training and internship programs.

The Office asks sponsors to increase their site visits and monitoring efforts to ensure trainees and interns are not engaged in unskilled labor. Specifically, these placements must adhere to 22 CFR 62.22 in the following specific aspects:

- In accordance with 22 CFR 62.22(e)(3), programs must not duplicate an exchange visitor's prior work experience or training received elsewhere. T/IPPs for interns and trainees raise concern when the training rotations do not demonstrate a progression in the development of advanced skills by the exchange visitor. Entry-level activities may be appropriate in some circumstances, but must also provide an opportunity to improve or acquire new skills and knowledge. The Form DS-7002 Training/Internship Placement Plan (T/IPP), and its implementation, must demonstrate that an activity provides **bona fide training for trainees or work-based learning for interns** within the meaning of 22 CFR 62.22(i)(2). For trainees, structured and guided training must develop new and advanced skills in a trainee's occupational field.
- "To further distinguish between *bona fide* training for trainees or work-based learning for interns, which are permitted, and unskilled or casual labor positions, which are not," 22 CFR 62.22(i)(2)(i) requires the T/IPP to state the various **training goals and objectives** of the training or internship program (for each phase, if applicable). T/IPP phases involving positions comprised of unskilled or casual labor are not permitted. Sponsors should verify that bona fide training and work-based learning is occurring and that the T/IPP is being fulfilled during each phase.
- The T/IPP must describe, for each program phase, the **knowledge, skills, or techniques** to be imparted to a trainee or intern within the meaning of 22 CFR 62.22(i)(2)(ii). This explains how the training or internship bridges a gap between formal education and practical training or work experience of the exchange visitor.
- Finally, the T/IPP must describe the methods of **performance, evaluation, and supervision** for each phase or component, if applicable, pursuant to 22 CFR 62.22(i)(2)(iii).

Any training or internship activity conducted by a trainee/intern during a phase must be linked to bona fide training or work-based learning, respectively. Sponsors should actively monitor to ensure that placements facilitate trainee/intern growth, help them acquire specialized skills, and enable them to experience U.S. business practices and culture firsthand. For examples of acceptable bona fide training or work-based learning, see <https://j1visa.state.gov/wp-content/uploads/2017/02/FINAL-Annex-to->

[Guidance-Directive-on-casual-and-unskilled-labor-1.pdf](#). This Guidance Directive will take effect February 23, 2017 and applies to all trainees and interns beginning their exchange programs on or after this date.

A handwritten signature in blue ink, appearing to read 'KS', enclosed within a hand-drawn oval.

Kevin Saba
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for Private Sector Exchange