

**International
Association of
Amusement Parks
and Attractions**

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July 9, 2012

The Honorable Robin J. Lerner
Deputy Assistant Secretary for Private Sector Exchanges
Bureau of Educational and Cultural Affairs
Department of State
Washington, D.C. 20520

Submitted online via Regulations.gov

Re: RIN 1400-AD14: Exchange Visitor Program – Summer Work Travel

Dear Secretary Lerner:

The International Association of Amusement Parks and Attractions (IAAPA) is the largest trade association for permanently situated amusement facilities and attractions. IAAPA represents more than 4,000 facility, supplier, and individual members in the U.S. Member facilities include amusement and theme parks, waterparks, attractions, family-entertainment centers, arcades, zoos, aquariums, museums, science centers, resorts, and casinos. Among our members are very large, multi-location facilities as well as small, single-site, family-owned operations.

While IAAPA members vary widely in terms of their participation with the SWT program, generally speaking, SWT students are a small, but important, percentage of their workforce. Our members appreciate and value the cultural dimension these students bring to their entertainment facilities as well as the cultural experience of the students.

IAAPA strongly believes the key to a successful SWT program is providing transparency and setting proper expectations between students, employers, and sponsors. All parties should be working towards the same goals and should have a vested interest in laying the ground work for a program that is mutually beneficial to the student and the employer. IAAPA members have seen through their experiences that by enhancing transparency, participants make decisions based on facts and are generally more satisfied with their experience. In general, IAAPA supports job vetting, transparency of fees, and third-party sponsor audits.

Listed below are IAAPA's comments, questions, and concerns with regard to the Department of State's request for comments on potential changes to the Summer Work Travel Program.

Final year students

The industry would like the Department to reconsider its position on prohibiting final year students from ending their programs later than the country-specific end dates. Since final year students are not returning to an academic program in their home countries, there is no reason why they cannot extend their program.

“Protections for U.S. Workers”

The IFR contains a provision that prohibits employers who have experienced layoffs within the past 120 days from hosting J1 students. The attractions industry would like to see a clarification that the layoffs were in the same or similar job classifications. For example, a layoff or position elimination in a full time marketing or accounting management position should not preclude an employer from hiring a J-1 student to work in a food stand.

The IFR also prohibits employers who have workers on lockouts or strikes from hosting J1 participants. IAAPA believes a similar clarification should be added. For example, if an

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employer's union plumbers are locked out or on strike, that shouldn't preclude the employer from hiring J-1 students to work in a retail store.

“Hazardous Jobs”

The IFR creates a possible scenario where a J-1 employee who is over 18 is working alongside a U.S. citizen who is also over 18, earning the same wage, but is unable to do the same work because of the requirement that J-1 employees not be permitted to perform certain functions that are "declared hazardous to youth by the Secretary of Labor at Subpart E of 29 CFR part 570", which is intended to restrict employees under 18 from doing such things as operating trash compactors or meat slicers. This portion of the rule seems superfluous and somewhat contradictory to the requirements that student employees:

1. Work alongside U.S. Citizens in the same or similar job.
2. Be offered the same wages and benefits as their American counterparts.

Driving Restrictions

IAAPA would like the Department to reconsider the restriction prohibiting participants from working in positions for which drivers' licenses are required. In some situations attractions may occasionally use a mature, responsible J-1 employee to transport a small number of other J-1 students upon arrival or for urgent medical treatment when a full time staff member is not available. This saves the J-1 students a significant amount of money in cab fare where public transportation is not available. It would be helpful if this could be qualified, much like the hours ("predominantly between 10:00 p.m. to 6:00 a.m."), such that driving is only an incidental part of the position.

Cultural Components

IAAPA members have a long and successful history of working with Summer Work Travel (SWT) students. Every year, thousands of SWT students work in our members' facilities gaining a better understanding of American culture and developing rich relationships with their American counterparts. They work side by side with their American counterparts and interact with both American and international guests on a daily basis.

IAAPA members who work with the SWT program strongly believe that inclusion of these students in their workforce enhances the experience of their guests as well as their American employees. Many of IAAPA's members already engage in the types of "best practices" that have been mentioned by the Department of State. However, we understand and appreciate the Department's effort to continue to enhance the program in ways which will further strengthen program oversight and provide guidance to all sponsors, employers and students.

The stated purpose of the Mutual Education and Cultural Exchange Act of 1961, P.L. 87-256, when it was passed fifty years ago was to "increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange" with the intended goal of "development of friendly, sympathetic, and peaceful relations between the United States and other countries in the world." As was stated earlier, the SWT students experience an America which many of our American youth experience. The US guests in our members' facilities benefit by interacting with international workers, and the American workers have the opportunity to get to know, and rely on, the SWT students as fellow workers and peers.

They gain trust and respect for one another and each other's culture. These day-to-day interactions between the SWT students and Americans create the type of mutual understanding that is hard to quantify but very tangible in its impact on international mutual understanding. Anyone who can afford to travel to the United States can be a tourist and travel through our country, see our monuments and sights, but very few young people have the privilege of experiencing what it is like to work, live, shop, and make friends with peers in another country for four months. The everyday life experiences gained during the SWT program is an important element of the "cultural experience" of this program. We believe that the IFR is somewhat dismissive of the cultural experience gained through day-to-day interactions both on and off the job and should recognize and value of this powerful experience when evaluating whether a student had a "strong" cultural experience on the SWT program.

Conclusion

We agree that several of the reforms presented in the IFR will strengthen the program, resulting in a better experience for all participants. We hope the Department will seriously consider our suggestions for improving the IFR, before publishing a final rule.

It is important to keep in mind that the SWT program has undergone major regulatory reform over the past two years. IAAPA does not dispute that there were some abuses of the program by a small number of bad players; however, these abuses were never endemic to the program. Regardless, the attractions industry has made the necessary adjustments to programs to comply with the new rules.

We are not wholly convinced that additional regulatory action is necessary at this point; the last set of reforms has not even been in effect for a year. We question whether the Department should perhaps hold off on additional rulemaking until it sees the results of the existing regulations. Nevertheless, IAAPA appreciates the opportunity to comment on the Interim Final Rule.

Sincerely,

A handwritten signature in black ink that reads "Randy Davis". The signature is written in a cursive, flowing style.

Randy Davis
Senior Vice President, Safety & Advocacy