



International Association  
of Amusement Parks and  
Attractions

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June 27, 2011

The Honorable Rick Ruth  
Acting Deputy Assistant Secretary for Private Sector Exchanges  
Bureau of Educational and Cultural Affairs  
Department of State  
Washington, D.C. 20520  
Submitted electronically: [JExchanges@state.gov](mailto:JExchanges@state.gov)  
Re: RIN 1400-AC79, Exchange Visitor Program – Summer Work and Travel

Dear Deputy Assistant Secretary Ruth:

The International Association of Amusement Parks and Attractions (IAAPA) is the largest trade association for permanently situated amusement facilities and attractions. IAAPA represents nearly 3,000 facility, supplier, and individual members in the U.S. Member facilities include amusement/theme parks, waterparks, attractions, family entertainment centers, arcades, zoos, aquariums, museums, science centers, resorts, and casinos. Members are large, multi-location facilities as well as small, single-site, family-owned operations.

IAAPA members have a long and successful history of working with the Summer Work Travel (SWT) program. Every year thousands of SWT students work in our members' facilities gaining a better understanding of the American culture. Our members who work with SWT students strongly believe that the inclusion of these students in their workforce enhances the experience of their customers as well as their American employees. Working in an amusement park or attraction, SWT students develop working relationships with their American student counterparts and have day-to-day exposure to thousands of American families.

Many of the new employer requirements listed in the rulemaking are already utilized within the industry as "best practices." However, we appreciate the Department of State's efforts to continue to enhance the program in ways which will further strengthen oversight of the program and provide guidance to the sponsors, employers and students. IAAPA appreciates the opportunity to comment on the Department of State's interim final rule on the Exchange Visitor Program-Summer Work Travel, RIN 1400-AC79, Public Notice 7427.

When it passed fifty years ago, the stated purpose of the Mutual Education and Cultural Exchange Act of 1961, P.L. 87-256, 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 purpose of the "development of friendly, sympathetic, and peaceful relations between the United States and other countries in the world." The SWT

students experience an America which many of our American youth experience. In our industry they work at jobs which put them into day-to-day contact with Americans who are spending time with their families and enjoying an American experience –attending an amusement park, visiting a zoo, or playing a round of miniature golf. The students not only meet customers but they work side-by-side with American students who are in comparable positions. The American guests benefit by the infusion of international exposure and the American workers, over the course of the summer, have the opportunity to get to know, and rely on, the SWT students as fellow workers and peers and in this way, they gain trust and respect for one another as individuals of the world community. 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.

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

**Interim Final Rule.** We believe that the interim final rule should have been published as a proposed rule. We understand that there were urgent issues that needed to be addressed but believe that these were addressed through the pilot program. For more broad policy changes, publishing a proposed rule would have provided an opportunity for comment early in the process.

The interim final rule discusses the fact that meetings were held in October with program sponsors and their written views were solicited and considered. As members of the employer community, we believe that we are a critical part in smooth implementation of the program and our input into policy changes provide a unique perspective worthy of the Department's consideration when making broad programmatic changes.

The interim final rule implements many changes to the program. There are a number which employers and sponsors believe need further clarification. Given the importance of the rule and the need for further clarification, we urge the Department of State to expeditiously review comments and publish a rule on reconsideration for further comment prior to implementation and enforcement of the new requirements.

**Pre-Placement.** Under the interim final rule, all students from Non-Visa Waiver countries must have pre-placed jobs. This will require all employers to forecast their staffing requirements and implement hiring strategies. While, this will require additional work on the part of some employers, particularly those who hire small numbers of SWT students, the program benefits seem to outweigh the drawbacks.

Students without guaranteed jobs may have difficulty finding work which can lead to desperate situations. Students who cannot find work are left with few choices: go home; be stranded; or engage in inappropriate, prohibited, or problematic work. These situations do not promote the public diplomacy of the U.S. and do not leave students and their families with good impressions of their experiences. These negative experiences also tend to be the focus of the media and they showcase the entire program in a poor, and mostly inaccurate, light.

Additionally, students who have committed to a job before they leave for the United States are more likely to have researched the areas where they want to live and reviewed multiple job offerings. This will hopefully enable them to be more selective in choosing a position and thus there is a stronger probability that they will have a good experience once in the United States; furthering the public diplomacy goals of the program. This will also benefit employers in the long run by creating a more dependable workforce comprised of students who actually chose their employment.

**Job and Employee Vetting.** Sponsors will now have to confirm that potential host employers are bona fide businesses. This will include, but is not limited to obtaining EIN numbers, worker's compensation insurance policies (in accordance with state requirements), visiting employer websites, viewing advertisements/brochures, making in-person visits, etc.. Additionally, it is prohibited that sponsors or foreign entities acting on the sponsors' behalf pay or provide any incentive to host employers to induce them to provide placements for participants. In general, this provision should strengthen the program by decreasing the possibility that students will end up with employers who are not legitimate or who are not promoting the program's overall public diplomacy goals.

The SWT program has three main constituents: sponsor (including the foreign entities a sponsor works with), student, and employer. We believe the State Department should consider taking an even closer look at any participation from other groups, i.e. third party involvement. In general, our members do not believe there is a need for a third party or a middle man between the student and the employer (such as placement agencies, temp agencies, etc.). These individuals tend to operate solely to make money off of the Work and Travel program, usually from the students, with little or no programmatic value added. We have members who have been personally approached by these businesses and been offered incentives for referrals and to place students. We believe the State Department needs to take a hard look at these businesses and determine whether they add value or whether they are detrimental to the program and undermine the work of good sponsors and good employers to the overall detriment of the program.

On the other hand, while prohibiting payment or incentives to employers to entice them to hire SWT students strengthens the program, legitimate business practices should not become a casualty of this rule. For instance, sponsors often conduct hiring trips, provide equipment for video conference hiring, etc.; these items should not be confused with payments or incentives. These practices are legitimate business activities and enhance the overall program by ensuring the opportunity for more face-to-face interviewing and better hiring. Without some type of assistance for hiring trips and/or hiring equipment many employers simply would not be able to participate in the SWT program. We seek State Department clarification that sponsor conducted employer hiring events are acceptable under the rules.

The interim final rule requires employers to guarantee specified work periods (start and end date), approximate number of hours, and specified wages. We believe the State Department needs to clarify this provision. We strongly urge the Department to give employers the flexibility to meet minimum requirements in a manner which accommodates their business needs as well as student expectations. For example, in the case of amusement parks, hours for both our American and SWT students can be heavily impacted by inclement weather. If parks experience bad weather they

should not be put in the position of having to cut American worker hours to accommodate SWT student needs. We need a flexible mechanism to address the issue of minimum hours. We would urge the Department to consider meeting this requirement through an overall minimum average number of hours that is allowed to fluctuate from week to week based on business needs.

**Program Administration.** We concur with the Department's conclusion that Final Year students who apply for the summer work travel program while still in school may participate in the summer work travel program during the school's major academic break that follows their graduation. However, we urge the Department to reconsider limiting Final Year students' participation to the school's calendar. There is no justification presented to end a Final Year student's employment as if they were still in school. These students should be allowed to participate in the program for the full maximum duration of the program: four months. Final Year students can work further into the shoulder season for many of our businesses and assist with our fall festivals and Halloween events. These events significantly contribute to the financial success of our businesses and staffing these events is problematic as many American workers are back in school. To limit all Final Year students to the school's calendar, when they have graduated and not returning to school seems arbitrary.

We would also urge the Department to reconsider country-wide program start and end dates that correspond with typical academic calendars. Not all schools in a given country have the same start and end dates. Although we recognize that the consular offices are using "typical" dates, this excludes students from universities that do not fall into the typical calendar. For instance, students from Singapore can start as early as April and end in early August, while others cannot come before June and are available until early September. The calendar simply does not work for some schools and for others it does not align well and would limit the students to less than eight weeks on the job. This limited time in the program becomes unrealistic for both students and employers. Participation dates should be dictated by the individual student's school dates. It does not seem as though it would be onerous to the consular offices to require students to bring an official school calendar with them to the visa interview and to not issue the visa for dates that do not correspond with the individual's school break. Consular officers could offer even more flexibility by allowing students to come prior to the end of their school year if they have documentation clearly showing that their exam schedule ended prior to the official end of school. It seems unreasonable to think that students would risk a semester, or year's, worth of academic credit to leave a week or two early to participate in the SWT program.

The purpose of the interim final rule is to make changes which will strengthen the program even though the changes will create more work for the sponsors and employers. We hope that the consular offices will do the same, by not restricting dates for their convenience but determining a way to allow students to participate fully and to have program dates dictated by the individual official school calendars.

We also strongly agree with the additional flexibility gained by allowing video-conference interviews. Video-conferenced interviews allow employers an additional chance to assess whether their hires will be a good match for their businesses, thus decreasing the number of SWT participants that result in a bad fit and leave their positions.

We urge the State Department to consider a longer grace period for reporting to work. Sponsors are obligated to end the exchange programs of participants who do not report their arrival within ten days following the program start date or who do not report to the job site. This needs to take into consideration travel and/or processing delays. For example, Student A is given a program start date of June 1. The student may have an unexpected final, can't book a student fare flight, has their visa still in processing at the embassy, etc. and ends up coming later, say June 11. Under this rule, the student's program would be ended on June 10. With host employer permission to arrive late, the work start date can be extended, but the program start date cannot always be extended because the DS2019 cannot be re-printed and reach the student before travel. There needs to be a longer grace period for such delays.

**Monitoring.** We would urge the Department to change the requirement that the employer notify them when a student arrives at the work site to one which requires the employer to notify the sponsor if the student does not show up at work. The same objective will be met, but in a much more direct manner. The numbers of students who do not arrive is much smaller than the number of students that do arrive. Some larger employers may have over fifty students arrive in a day, yet only one or two do not show up as planned.

In conclusion, the diplomatic benefits of the relationships developed between the hundreds of thousands of students, their employers and their fellow workers since the SWT program's inception have immeasurably benefited the United States in terms of our relationships overseas. We believe many of the changes proposed in the interim final rule will strengthen the program and prevent the types of incidents that the Department is trying to prevent.

The issues we mention above will further strengthen the program and enhance the employers' ability to participate in the program and be responsible players for the overall improvement of the SWT program.

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, Government Relations