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November 23, 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: [swtsponsors@state.gov](mailto:swtsponsors@state.gov)

## **Re: Summer Work and Travel Program Changes**

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 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.

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.

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. And the SWT students' different school schedules provide a valuable supplemental work force during the "shoulder" seasons when American employees are not available.

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.

(1) Transparency. The sponsors should have available for the Department of State, employers, and students, as appropriate, the following:

- a. A description of the job, or types of jobs, the student may work and a description of the anticipated average number of minimum and maximum hours the position requires based on historical experience;
- b. An assurance that the SWT students will receive hours, wages, and work conditions comparable to similarly situated American counterparts at each employer;
- c. A list of "cultural best practices" to provide employers which may include suggestions for enhancing a student's experience on the job as well as suggestions for culturally rich ways in which a student may spend their free time;
- d. The nature of housing and transportation that participants should anticipate, including whether housing is offered directly by employer, in which case, the cost should be no higher than fair market value for the location;
- e. A full itemized description of all fees and costs to participants; and
- f. A grievance procedure and plan.

This information would provide the Department of State, employers and students additional information on critical aspects of the program. It would also enable the Department of State to identify problem areas earlier in the process.

Based on the information provided, each SWT student should acknowledge receipt of information about employment, including average minimum and maximum hours based on historical data, nature of housing and transportation, and full description of all fees and costs. Students should also be made aware of the grievance procedure.

(2) Hours. As stated above, we believe that employers should be required to make students aware, well in advance of their arrival in the United States, of the average minimum and maximum hours that their job has historically required. We also believe that employers should certify that SWT students will receive hours, wages and have work conditions comparable to their similarly situated American counterparts and in compliance with state and federal law.

We do not believe, however, that hours should be arbitrarily capped. Imposing such a cap in fact could result in a situation where employers are forced to treat SWT workers differently from their domestic counterparts which would put employers in an untenable position. Hours vary tremendously over the course of the summer and SWT students (as well as their American counterparts) often work 60 hours a week or more during busy times. If the Department is concerned about students being forced into working more than they want, it could require that beyond a certain number of hours, say 60, the SWT student must sign a form with the employer stating their willingness and desire to work more than that number of hours.

Hours at parks and attractions are dependent on many things beyond the businesses' control – such as weather. A park may have inclement weather one week and therefore their staffing needs decrease but the following week, the weather is great, and the park (and students) need more hours than the prior week. Imposing artificial limits or guarantees will be very problematic for businesses. Seasonal businesses, particularly those that are influenced by weather, need flexibility for scheduling. If students sign up with an employer knowing the range of hours and the variability of the work schedule, presumably they are willing, and in fact happy, to work those hours.

We feel strongly that limiting the hours will have a negative impact on businesses, and also on participants.

- The majority of students will not be happy with a cap on their hours and many would earn considerably less money; therefore, making the program less attractive for potential participants. Their expenses would not decrease, only their earnings. Housing will be the same, groceries the same – but their check will be less. They will likely not have as much money to devote to travel, daytrips, and cultural activities.
- There would likely be unintended consequences to a requirement that places a cap on hours: students will try to find a way to get more money and more hours and will look for other opportunities. It will drive students to find second jobs, including under-the-table-work, and potentially employment in some of the “prohibited” areas. IAAPA posits it is better to have the students engaged legally within the system rather than illegally with unvetted employers?
- If hours are limited and each student can only work X amount, employers will be less likely to be able to accommodate their requests for additional days off to sightsee and do cultural activities because other students who would normally be scheduled to fill those shifts may exceed the maximum number of hours and therefore, not be able to cover the additional

shift(s). Limiting hours will also decrease the students' financial resources to fund their travel which may have a negative impact on one aspect of the cultural component of the program.

- Depending on the maximum number of hours allowed, employers may need to hire more J1 participants which would cause another set of issues for the employer and State

(3) Cultural Component. IAAPA urges the State Department to have all employers sign an acknowledgement that they understand the SWT program is a cultural exchange program, and they are committed to providing a cultural experience for the SWT students either within the course of their employment or by offering outside experiences in which the student has the opportunity to participate.

IAAPA strongly believes that a large part of the cultural benefit of the program comes from working and living within our culture. For any position in which the student is interacting, either with Americans as customers or coworkers, there should be a presumption that the cultural requirement is met. Frankly, it is difficult to imagine a better cultural component to a program.

In addition to the cultural benefits of the actual job, many IAAPA members, on a voluntary basis, host a variety of additional activities for their students, including but not limited to: employee gatherings, organized employee sporting events during days off, trips to local tourist attractions, organized trips to schools and/or rotary clubs, training with cultural activities incorporated, and various forms of opportunity that create interaction. While many businesses offer these activities, mandating any particular type of activity will be difficult since employers' locations vary tremendously. It should also be noted that these activities are voluntary for the student and that some of the activities have costs associated with them which the SWT students may or may not be interested in paying.

There are many other considerations besides cost which would make a student not choose to participate in a cultural activity. These include such things as interests (not everyone wants to go to a ball game), overall objective - some students don't participate in any of our trips because they have their own travels planned, sometimes with friends who work for different employers, sometimes with relatives or family friends in the States. They may still go to the same places (and often many more), but on their own timeframe. They may be a repeat J1 student and during their second time, they want new experiences, so they decide to visit further locales and/or different sites than first time participants.

To the extent that the State Department decides to impose a cultural component above and beyond the cultural benefit obtained through their position, we believe:

- a. It should be a pilot program;
- b. It should be phased in over time;
- c. The sponsor should provide the employer with suggested activities that the employer could offer to best fit each unique program; and
- d. The requirement would be to offer the "cultural activity or opportunity" but not require attendance.

(4) Limitation on Permissible Jobs. We have heard that there may be discussion at the Department of State of using the Department of Labor's list of occupations that it considers particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being to determine the jobs that SWT students are prohibited from filling. Since this list is based on the age of the worker, it is difficult to understand any connection between it and the jobs which workers 18 and over can perform, whether they are U.S. citizens or participants in the SWT program.

(5) Program Cap. We do not believe that the program numbers should be capped. The program ebbs and flows with the U.S. economy. While employers believe in the cultural benefits of the program, their SWT numbers definitely decrease when there is a greater availability of domestic workers. For example, during the last three years as the unemployment rate in the United States has increased, the overall number of SWT students was substantially lower than in 2006 and 2007 when the numbers of students who participated were 152,726 and 147,645 respectively. To choose a number as an arbitrary program cap may have unintended consequences such as increasing the program price to foreign students and limiting, rather than extending, the cultural benefits to the United States. Rather than limit the numbers, we believe greater transparency requirements need to be imposed so that all sponsors are running solid programs and the United States is reaping the public diplomacy benefits of the program.

(6) Form DS-7007. We urge the Department of State to consolidate information on its current forms rather than create a new form which will increase the administrative burdens.

(7) Interim Final Rule. We understand State is considering making fairly substantial changes in a number of program areas. We also understand State is considering publishing changes to the SWT program in the form of an interim final rule which would take effect prior to next summer. While we appreciate the desire to make changes on a fairly expedited basis, experience shows there are usually unintended consequences to expedited rule changes. We are aware of IAAPA members who have already begun the recruiting process for 2012. Due to the timing of the operating season of some of our members, they cannot delay this activity. We would urge the Department of State to issue a notice of proposed rulemaking, and make changes that result from that rulemaking effective in 2013.

In conclusion, we believe the SWT program is an extremely valuable public diplomacy tool that enhances the experience of our guests and domestic employees and provides the opportunity to showcase American culture to a broad cross section of students from around the world. In the vast majority of cases, the program seems to be achieving the goals envisioned by the law. While we support the State Department's overall effort to increase transparency between the student, sponsor, and employer, and tighten current requirements so abuses are minimized, we caution the Department not to make changes to the program which may result in the unintended consequence of decreasing employer or SWT student participation in this valuable program.

Sincerely,



Randall Davis  
Senior Vice President, Safety & Advocacy