

June 2010

Summer is Here: Trainees and Interns

By Frida P. Glucoft and Alexsondra Shore-Fixmer

Employers must consider the various steps involved in summer programs and internships for foreign applicants - the J-1 visa. The Department of State ("DOS") regulates the extensive regulations which govern J-1 visas for trainees and interns. The main objective of the J-1 program is to prevent what the DOS considers the misuse of training programs by sponsors, specifically where trainees are used as "employees" and the J-1 visa is used in lieu of the H visa or as a stepping stone for another long-term non-immigrant or immigrant visa classification. Although the DOS strongly emphasizes the prohibition of the use of the J-1 program as an employment program, it also recognizes that work is an essential component of the on-the-job training. The DOS closely monitors the quality and compliance of J-1 exchange programs while simultaneously expanding the program to a larger group of employer participants.

I. Trainees

Eligibility Criteria:

Under the J-1 visa regulations, in order to qualify for admission as a trainee, the foreign national must have either:

1. A degree or professional certificate from a post-secondary academic institution outside the U.S. and at least one year of prior related work experience in his or her occupational field; OR
2. Five years of work experience outside the U.S. in his or her occupational field.

The trainee is required to demonstrate sufficient fluency in English to function in the training environment. Such fluency can be established through a recognized English test, signed documentation from an academic institution or English-language school, or a documented interview conducted by program sponsors or a third party in person, by videoconferencing, or by web camera.

II. Interns

Eligibility Requirements:

Foreign nationals may qualify for admission as interns if:

1. They are currently enrolled in and pursuing studies at a degree or certificate-granting post-secondary academic institution outside the United States; OR
2. Graduated from such an institution no more than 12 months prior to their exchange visitor program start date to participate in an internship program.

The intern must also demonstrate sufficient fluency in English to function in the program environment. The acceptable

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WEDNESDAY, JULY 28, 2010

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methods of confirming fluency are the same as for trainees discussed above.

III. Training/Internship Placement Plan (T/IPP)

All future training plans for both trainees and interns must state the specific goals and objectives of the training and internship program; detail the knowledge, skills, or techniques to be imparted to the trainee or intern; and describe the methods of performance evaluation and the supervision for each phase or component. For trainees, the plan must also describe the methodology of training and provide a chronology or syllabus. The T/IPP must be completed on Form DS-7002 with signatures prior to issuing a Form DS-2019.

Table of Summary J-1 Regulations:

The main points from the regulations are summarized below showing both the training program and internship programs:

	Training Program	Internship Program
Participant Definitions	<p>Graduates with degree or post-secondary certificate from academic institution with one year of work experience outside the U.S.</p> <p>OR</p> <p>Non-graduates with five years of work experience outside the U.S.</p>	<p>Current students enrolled in a degree or certificate granting post-secondary institution outside of the U.S.</p> <p>OR</p> <p>Recent graduates from a degree or certificate granting post-secondary institution who will begin the program within 12 months of graduation.</p>
Partner Requirements	<ul style="list-style-type: none"> • Must present business license or certificate to operate within home country AND • Provide local Dun and Bradstreet number www.dnb.com/ 	
Program Definitions	<p>Up to 18-month program that provides practical experience in U.S. business methodologies for candidates with experience in the field from their home country. Hospitality and Tourism programs have been reduced to 12-month programs from the current 18 months.</p>	<p>12-month program that provides work-based experience for students that reinforces their academic studies.</p>
Host Company Requirements	<ul style="list-style-type: none"> • Dun and Bradstreet (D&B) number. • Employer Identification Number (EIN). • Verification of address, phone number, and business activities by website. • Verification of Workman’s Compensation Insurance Policy. • Site visits for companies with less than 25 employees or less than • \$3 million in annual revenues. 	

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