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## Guidance Directive 2010-10

### Secondary School Student Program Final Rule

**This Guidance Directive is issued to all sponsors conducting Secondary School Student programs to clarify certain provisions of the Final Rule published in the Federal Register on October 27, 2010, the provisions of which became effective November 26, 2010. Full compliance with all provisions of this Rule is expected for all placements made for the 2011-12 academic year. These regulations are applied prospectively and thus student placements for the 2010-11 academic year are not affected. We direct your attention to six provisions that merit your immediate attention. These provisions are:**

**22 CFR 62.25(d)(6):** “Sponsors must ... [m]ake no monetary payments or other incentives to host families....”

This new language clarifies the Department’s prior policy guidance that host families must be volunteers. No one (e.g., schools, natural parents, sponsors) may either directly or indirectly pay host families by cash or other incentives (e.g., gift cards for groceries, gas, or retail; trips; or other stipends to host exchange students).

**22 CFR 62.25(d)(7):** “Sponsors must ... [p]rovide exchange students with reasonable access to their natural parents and family by telephone and email....”

Temporary restrictions on the use of computers or cell phones in the course of normal discipline are acceptable, so long as exchange students are not deprived of reasonable access to timely communications with their natural parents.

**22 CFR 62.25(d)(8):** “Sponsors must ... [m]ake certain that the exchange student’s government issued documents (i.e., passports, Forms DS-2019) are not removed from his/her possession....”

Sponsors may wish to remind exchange students of their responsibility to maintain their travel documents, encourage them to make copies for safekeeping, and develop procedures for students to follow if these documents are lost or stolen. Copies may be retained by the sponsor. The Federal law codified at 8 USC 1304(e) requires that:

Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d). Any alien who fails to comply with the provisions of this subsection shall

be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both.

**22 CFR 62.25(j)(6):** “Sponsors must ... [e]nsure that the host family has adequate financial resources to undertake hosting obligations and is not receiving needs-based government subsidies for food or housing....”

**22 CFR 62.25(m)(1)-(4):** *Advertising and Marketing for the recruitment of host families.* In addition to the requirements set forth in § 62.9 in advertising and promoting for host family recruiting, sponsors must:

- (1) Utilize only promotional materials that professionally, ethically, and accurately reflect the sponsor’s purposes, activities, and sponsorship;
- (2) Not publicize the need for host families via any public media with announcements, notices, advertisements, etc. that are not sufficiently in advance of the exchange student’s arrival, appeal to public pity or guilt, imply in any way that an exchange student will be denied participation if a host family is not found immediately, or identify photos of individual exchange students and include an appeal for an immediate family;
- (3) Not promote or recruit for their programs in any way that compromises the privacy, safety or security of participants, families, or schools. Specifically, sponsors shall not include personal student data or contact information (including addresses, phone numbers or email addresses) or photographs of the student on Web sites or in other promotional materials; and
- (4) Ensure that access to exchange student photographs and personally identifying information, either online or in print form, is only made available to potential host families who have been fully vetted and selected for program participation. Such information, if available online, must also be password protected.

This new language establishes guidelines for advertising and marketing for the recruitment of host families. Oversight and compliance initiatives undertaken by the Department may require sponsors to participate in routine or ad hoc data requests or other types of reviews and the results of such initiatives may be shared with sponsors. Sponsors may not use their “rankings” in any such Department-mandated oversight or compliance initiatives in any promotional materials or otherwise utilize this information in an effort to claim regulatory compliance unless the Department explicitly approves such use.

Further, this new language is intended to prevent the **unscreened** public from perusing “catalogues” of students, whether in print or in online format. For this purpose, the Department interprets the phrase “fully vetted and accepted” as requiring that the sponsor secure, review, and accept a host family application for program participation, then collect and

accept the results of the criminal background check for each adult member of the family as set forth in 22 CFR 62.25(j).

**22 CFR 62.25(n)(3):** “[S]ponsors must file with the Department of State ... [a] report of all situations which resulted in the placement of an exchange student with more than one host family or in more than one school.... This report is due by July 31 for the previous academic school year.”

The Change of Placement Report is based on the format of the existing Placement Report, and with minor exceptions only requires sponsors to add a new student record for each change of host family and/or school. Sponsors with no students changing homes or schools are expected to submit a Change of Placement Report that lists no students. A template will be provided to all sponsors in order to submit the report electronically. This report will be due for the 2010/11 academic year.

**The Department’s interpretation of certain regulatory language has been sought by members of the sponsor community, and we are pleased to provide additional insight regarding the following provisions:**

**22 CFR 62.25(d)(4):** “Place no exchange student with his or her relatives.”

The prohibition is redundant and will be removed from the regulations as the restriction against placing exchange students with relatives applies to the students’ relatives as set forth at **22 CFR §62.25(j)(2)**.

**22 CFR 62.25(d)(10):** “Sponsors must ... [r]efrain, without exception, from acting as: (i) Both a host family and a local coordinator or area supervisor for an exchange student;

The Department considers this to be the “one hat” rule. The regulations do not prohibit a local coordinator or area supervisor from hosting an exchange student. In such cases, local coordinators outside the chain of placement supervision of these individuals (and residing within 120 miles of the host families) must serve as the student’s local coordinator and monitor the placements.

In addition, the regulations do not prohibit a teacher from hosting a student in his or her class. Nor do they prohibit a principal from hosting a student who attends his or her school. However, they do prohibit a teacher from being the local coordinator for a student in his or her class, and they do prohibit a principle from being the local coordinator for a student attending his or her school.

**22 CFR 62.25(d)(12):** “Sponsors must ensure...[t]hat a sponsor representative other than the local coordinator who recruited, screened and selected the host family visit the exchange student/host family home within the first or second month following the student's placement in the home.

The Department interprets “within the first ... month” to mean within 30 days after the student has joined the host family; and it interprets “within the second ... month” to mean within 60 days after the student has joined the host family. Sponsors must conduct follow-up home visits to all homes designated as “temporary,” “welcome,” or “arrival” homes on the Placement Report (that sponsors are required to file pursuant to 22 CFR §62.25(n)(3)) within 30 days after the student moved into the home. In the unlikely event that a permanent home is not shortly found for the student, the sponsor must conduct a second follow-up home visit within 30 days following the first visit.

This provision does not require the “sponsor representative” to be a vetted employee. However, if the sponsor wishes to include this visit as one of the required monthly personal contacts with the student, then the visit must be conducted by a sponsor representative who has been vetted by a criminal background check within the past year (pursuant to new 22 CFR §62.25(d)(3)), has been trained in the topics identified in new 22 CFR §62.25(d)(1), and who otherwise meets the sponsor’s and Department’s requirements to act in the capacity of a local coordinator.

**22 CFR 62.25(j)(2):** “Sponsors must...[u]tilize a standard application form developed by the sponsor that includes, at a minimum, all data fields provided in Appendix F, “Information to be Collected on Secondary School Student Host Family Applications”.

The Department notes that sponsors are not required to use the specific language set forth in Subpart F word for word so long as all the required information is gathered. Sponsors are responsible for reviewing host family application materials for completeness and suitability. A sponsor’s failure to collect all of the data collection items could result in a finding of non-compliance on the part of the sponsor. Sponsors who approve host families whose application materials are incomplete as enumerated in Appendix F have not sufficiently screened such families.

**Finally, the Department will issue a future Federal Register Notice addressing implementation of the local coordinator training requirements set forth at 22 CFR 62.25(d)(1). An appropriate phase-in period will provide local coordinators sufficient time for local coordinators to be certified in time for the commencement of the 2011/12 academic year.**

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