

State Department plans changes for student, intern visas

By Bill Leonard, HR News

Society of Human Resources Management

Just as the debate over immigration reform appears set to heat up again on Capitol Hill, the U.S. State Department is preparing to make major changes to the rules on how employers can acquire visas for foreign workers who participate in training and internship programs.

The proposed changes to the J-1 visa program, which governs how employers offer sponsorships to foreign students and workers for employment-based learning experiences, were published in the *Federal Register* in early April. The State Department will accept comments on the proposed revisions until June 6.

According to State Department officials, the regulations for J-1 visas had not been changed since 1993. The proposed rule revisions are a direct response to a report issued by the Government Accountability Office (GAO) in October 2005.

The GAO report revealed that some employers have misused the J-1 visa program by sponsoring “trainees” who did not actually receive any training and were being used as employees. In addition, GAO found that training visas were being used as stepping stones for “longer-term nonimmigrant or immigrant work classifications that may have been unavailable at the time of application for a visa.”

The proposed rules attempt to close some of the loopholes in the J-1 program by redefining terms such as “trainee,” “intern” and “internship.” Also, they are designed to eliminate the distinctions among training for unskilled, non-specialty and specialty occupations. According to a statement by the State Department’s Office of Exchange Coordination and Designation, “the distinctions between and among the current occupational categories are conceptually artificial and do not adequately describe the types of training that the Department desires to promote in the national interest.”

The proposed changes would create a new 12-month intern program that would allow employers to sponsor recent foreign graduates of colleges and other accredited educational institutions to come to the United States and gain work-based learning experiences in the chosen professional fields. The rules, however, could place many new constraints on employers by requiring them to provide additional proof that their trainees and interns are participating in a formal training or internship program.

One of the proposed changes would require that employers or their representatives travel to the trainees’ or interns’ homeland to interview them for the program—instead of having program candidates travel to the United States. In addition, employers would have to provide written

assessments of the training programs or internships to the State Department and keep the assessment reports on file for a minimum of three years.

Several employer and training advocacy groups have expressed concerns that the proposed regulations could prove too burdensome to employers and end up forcing many businesses to end productive training programs for workers who are not U.S. citizens and are based overseas.

“We are reviewing the proposed changes carefully and will be making comments on the behalf of our members before the comment period’s June 6 deadline,” said Kenya Wiley, manager, regulatory and judicial affairs, for the Society for Human Resource Management. “While we understand the need to create better and more effective ways to regulate these important employer sponsorship programs, we also need to be careful and make sure these rules are not overly burdensome and create more problems than they solve.”

Comments can be sent by e-mail to jexchanges@state.gov (include in the subject line the reference number: 1400–AC15) or mail comments directly to U.S. Department of State, Office of Exchange Coordination and Designation, SA–44, 301 4th Street, SW, Room 734, Washington, DC 20547.

Bill Leonard is senior writer for HR News.