

US Department of State Au Pair Program Regulations

J Exchange Program :: Sec. 62.31 Au Pairs

(a) Introduction. This section governs Department of State-designated exchange visitor programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family. All au pair participants provide child care services to the host family and attend a U.S. post-secondary educational institution. Au pair participants provide up to forty-five hours of child care services per week and pursue not less than six semester hours of academic credit or its equivalent during their year of program participation. Au pairs participating in the EduCare program provide up to thirty hours of child care services per week and pursue not less than twelve semester hours of academic credit or its equivalent during their year of program participation.

(b) Program designation. The Department of State may, in its sole discretion, designate bona fide programs satisfying the objectives set forth in paragraph (a) of this section. Such designation shall be for a period of two years and may be revoked by the Department of State for good cause.

(c) Program eligibility. Sponsors designated by the Department of State to conduct an au pair exchange program shall: (1) Limit the participation of foreign nationals in such programs to not more than one year; (2) Limit the number of hours an EduCare au pair participant is obligated to provide child care services to not more than 10 hours per day or more than 30 hours per week and limit the number of hours all other au pair participants are obligated to provide child care services to not more than 10 hours per day or more than 45 hours per week; (3) Require that EduCare au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent; (4) Require that all officers, employees, agents, and volunteers acting on their behalf are adequately trained and supervised; (5) Require that the au pair participant is placed with a host family within one hour's driving time of the home of the local organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters arising from the au pair's participation in their exchange program; (6) Require that each local organizational representative maintain a record of all personal monthly contacts (or more frequently as required) with each au pair and host family for which he or she is responsible and issues or problems discussed; (7) Require that all local organizational representatives contact au pair participants and host families twice monthly for the first two months following a placement other than the initial placement for which the au pair entered the United States. (8) Require that local organizational representatives not devoting their full time and attention to their program obligations are responsible for no more than fifteen au pairs and host families; and (9) Require that each local organizational representative is provided adequate support services by a regional organizational representative.

(d) Au pair selection. In addition to satisfying the requirements of Sec. 514.10(a), sponsors shall ensure that all participants in a designated au pair exchange program: (1) Are between the ages of 18 and 26; (2) Are a secondary school graduate, or equivalent; (3) Are proficient in spoken English; (4) Are capable of fully participating in the program as evidenced by the satisfactory completion of a physical; (5) Have been personally interviewed, in English, by an organizational representative who shall prepare a report of the interview which shall be provided to the host family; and (6) Have successfully passed a background investigation that includes verification of school, three, non-family related personal and employment references, a criminal background check or its recognized equivalent and a personality profile. Such personality profile will be based upon a psychometric test designed to measure differences in characteristics among applicants against those characteristics considered most important to successfully participate in the au pair program.

(e) Au pair placement. Sponsors shall secure, prior to the au pair's departure from the home country, a host family placement for each participant. Sponsors shall not: (1) Place an au pair with a family unless the family has specifically agreed that a parent or other responsible adult will remain in the home for the first three days following the au pair's arrival; (2) Place an au pair with a family having a child aged less than three months unless a parent or other responsible adult is present in the home; (3) Place an au pair with a host family having children under the age of two, unless the au pair has at least 200 hours of documented infant child care experience. An au pair participating in the EduCare program shall not be placed with a family having pre-school children in the home unless alternative full-time arrangements for the supervision of such pre-school children are in place; (4) Place an au pair with a host family having a special needs child, as so identified by the host family, unless the au pair has specifically identified his or her prior experience, skills, or training in the care of special needs children and the host family has reviewed and acknowledged in writing the au pair's prior experience, skills, or training so identified; (5) Place an au pair with a host family unless a written agreement between the au pair and the host family detailing the au pair's obligation to provide child care has been signed by both the au pair and the host family prior to the au pair's departure from his or her home country. Such agreement shall clearly state whether the au pair is an EduCare program participant or not. Such agreement shall limit the obligation to

provide child care services to not more than 10 hours per day or more than 45 hours per week unless the au pair is an EduCare participant. Such agreement shall limit the obligation of an EduCare participant to provide child care service to not more than 10 hours per day or more than 30 hours per week. (6) Place the au pair with a family who cannot provide the au pair with a suitable private bedroom; and (7) Place an au pair with a host family unless the host family has interviewed the au pair by telephone prior to the au pair's departure from his or her home country.

(f) Au pair orientation. In addition to the orientation requirements set forth at Sec. 514.10, all sponsors shall provide au pairs, prior to their departure from the home country, with the following information: (1) A copy of all operating procedures, rules, and regulations, including a grievance process, which govern the au pair's participation in the exchange program; (2) A detailed profile of the family and community in which the au pair will be placed; (3) A detailed profile of the educational institutions in the community where the au pair will be placed, including the financial cost of attendance at these institutions; (4) A detailed summary of travel arrangements; and (5) A copy of the Department of State's written statement and brochure regarding the au pair program.

(g) Au pair training. Sponsors shall provide the au pair participant with child development and child safety instruction, as follows: (1) Prior to placement with the host family, the au pair participant shall receive not less than eight hours of child safety instruction no less than 4 of which shall be infant-related; and (2) Prior to placement with the American host family, the au pair participant shall receive not less than twenty-four hours of child development instruction of which no less than 4 shall be devoted to specific training for children under the age of two.

(h) Host family selection. Sponsors shall adequately screen all potential host families and at a minimum shall: (1) Require that the host parents are U.S. citizens or legal permanent residents; (2) Require that host parents are fluent in spoken English; (3) Require that all adult family members resident in the home have been personally interviewed by an organizational representative; (4) Require that host parents and other adults living full-time in the household have successfully passed a background investigation including employment and personal character references; (5) Require that the host family have adequate financial resources to undertake all hosting obligations; (6) Provide a written detailed summary of the exchange program and the parameters of their and the au pair's duties, participation, and obligations; and (7) Provide the host family with the prospective au pair participant's complete application, including all references.

(i) Host family orientation. In addition to the requirements set forth at Sec. 514.10 sponsors shall: (1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange program and provide all families with a copy of the Department of State's written statement and brochure regarding the au pair program; (2) Provide all selected host families with a complete copy of Department of State-promulgated Exchange Visitor Program regulations, including the supplemental information thereto; (3) Advise all selected host families of their obligation to attend at least one family day conference to be sponsored by the au pair organization during the course of the placement year. Host family attendance at such a gathering is a condition of program participation and failure to attend will be grounds for possible termination of their continued or future program participation; and (4) Require that the organization's local counselor responsible for the au pair placement contacts the host family and au pair within forty-eight hours of the au pair's arrival and meets, in person, with the host family and au pair within two weeks of the au pair's arrival at the host family home.

(j) Wages and hours. Sponsors shall require that au pair participants: (1) Are compensated at a weekly rate based upon 45 hours of child care services per week and paid in conformance with the requirements of the Fair Labor Standards Act as interpreted and implemented by the United States Department of Labor. EduCare participants shall be compensated at a weekly rate that is 75% of the weekly rate paid to non- EduCare participants; (2) Do not provide more than 10 hours of child care per day, or more than 45 hours of child care in any one week. EduCare participants may not provide more than 10 hours of child care per day or more than 30 hours of child care in any one week; (3) Receive a minimum of one and one half days off per week in addition to one complete weekend off each month; and (4) Receive two weeks of paid vacation.

(k) Educational component. Sponsors shall require that during their period of program participation, all EduCare au pair participants be enrolled in an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants be enrolled in an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of the au pair in an accredited U.S. post-secondary institution and to pay the cost of such academic course work in an amount not to exceed \$1,000 for EduCare au pair participants and in an amount not to exceed \$500 for all other au pair participants.

(l) Monitoring. Sponsors shall fully monitor all au pair exchanges, and at a minimum shall: (1) Require monthly personal contact by the local counselor with each au pair and host family for which the counselor is responsible. Counselors shall maintain a record of this contact; (2) Require quarterly contact by the regional counselor with each au

pair and host family for which the counselor is responsible. Counselors shall maintain a record of this contact; (3) Require that all local and regional counselors are appraised of their obligation to report unusual or serious situations or incidents involving either the au pair or host family; and (4) Promptly report to the Department of State any incidents involving or alleging a crime of moral turpitude or violence.

(m) Reporting requirements. Along with the annual report required by regulations set forth at Sec. 514.17, sponsors shall file with the Department of State the following information: (1) A summation of the results of an annual survey of all host family and au pair participants regarding satisfaction with the program, its strengths and weaknesses; (2) A summation of all complaints regarding host family or au pair participation in the program, specifying the nature of the complaint, its resolution, and whether any unresolved complaints are outstanding; (3) A summation of all situations which resulted in the placement of au pair participant with more than one host family; (4) A report by a certified public accountant, conducted pursuant to a format designated by the Department of State, attesting to the sponsor's compliance with the procedures and reporting requirements set forth in this subpart; (5) A report detailing the name of the au pair, his or her host family placement, location, and the names of the local and regional organizational representatives; and (6) A complete set of all promotional materials, brochures, or pamphlets distributed to either host family or au pair participants.

(n) Sanctions. In addition to the sanctions provisions set forth at Sec. 514.50, the Department of State may undertake immediate program revocation procedures upon documented evidence that a sponsor has failed to: (1) Comply with the au pair placement requirements set forth in paragraph (e) of this section; (2) Satisfy the selection requirements for each individual au pair as set forth in paragraph (d) of this section; and (3) Enforce and monitor host family's compliance with the stipend and hours requirements set forth in paragraph (j) of this section.

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