
USE AND ABUSE OF THE J-1 EXCHANGE VISITOR TEACHER PROGRAM

Public and private schools use the J-1 exchange visitor teacher program, one of several categories of the J-1 visa program, to employ teachers from abroad in the United States. Despite facilitating employment, the J-1 visa program lacks the appropriate safeguards to prevent workplace abuse, harming J-1 teachers and U.S. educators alike.

Few Regulations Govern the J-1 Exchange Visitor Teacher Program

While employment is a core component of the visa, the U.S. Department of Labor has no formal oversight role. The U.S. Department of State, which oversees the program that Congress intended for educational and cultural exchange,¹ provides very little oversight over the recruitment practices and working conditions faced by J-1 teachers.²

Typically, teachers in other countries learn about the J-1 teacher program and apply to work in the United States through unregulated labor recruitment agencies. Unlike guest worker programs governed by Department of Labor regulations, agencies recruiting for the J-1 teacher program are allowed to charge recruitment fees and other expenses, which can total upwards of \$15,000.³ J-1 teachers typically cannot pay this total upfront, leaving them saddled with high-interest debt owed to their recruiters before they even arrive in the United States and start teaching.⁴

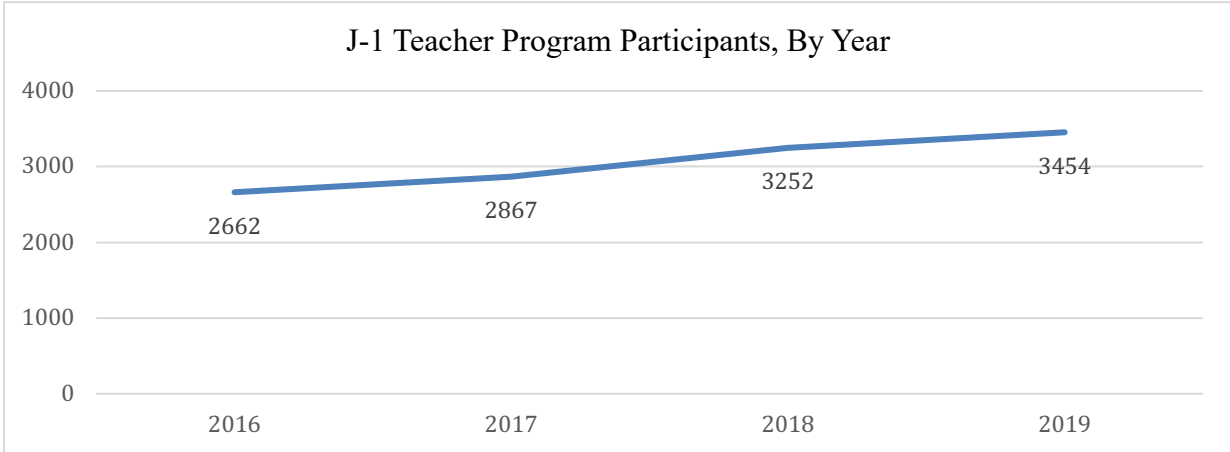
Lacking even the bare minimum protections of guestworker visa programs, school systems that employ J-1 teachers do not need to seek any type of pre-approval or labor certification from the U.S. Department of Labor. There are no requirements governing how much school systems must pay J-1 teachers, and no limit on the number of teachers recruited through the program. Employers who hire J-1 visa program participants are, in most cases, not required to pay federal FICA taxes (7.65%), providing a strong financial incentive for schools to skip past available, qualified U.S. educators.⁵

Quantifying the J-1 Exchange Visitor Teacher Program

The U.S. Department of State does not release substantive data about who is employed through the J-1 teacher program and in what types of schools. Based on the limited data available, it is clear that K-12 school systems are increasing their use of the J-1 teacher program to recruit

teachers.⁷ However, we do not know the ages, genders, or countries of origin of J-1 teachers nor the specific public or private schools that employ them. Additionally, the U.S. Department of State does not publish salary data for program participants. The lack of detailed program data makes it difficult to understand the degree to which specific school districts are relying on the J-1 teacher program and its impact on the overall labor market conditions for educators.

States with the largest number of J-1 Teachers, 2016-2019 ⁶	
State	Participants
NC	2,027
SC	1,224
CA	1,159
TX	1,103
AZ	794
FL	662
NM	604
LA	405
UT	389
NY	333



The J-1 Visa and Workplace Rights

In contrast with comparable temporary work visa programs, the J-1 teacher program has no specific wage regulations other than the requirement that positions must “comply with any applicable collective bargaining agreement.”⁸ Therefore, absent a union contract, employers may elect to pay J-1 teachers significantly less than they pay other teachers working in the same school.

Teachers hired on J-1 visas have the right to become members of and fully participate in their unions, and are protected by applicable labor law. J-1 teachers working in public schools are protected by state public sector labor law, while those working in private or charter schools are fully protected by the National Labor Relations Act, including having the right to participate in

efforts to organize new unions at their workplaces. Additionally, J-1 visa program regulations are clear that program sponsors and employers are not allowed to retaliate against J-1 visa program participants for consulting with advocacy, community, and legal organizations, filing complaints against sponsors and employers, testifying in proceedings, or exercising any other right afforded to them under the law.⁹ Despite these legal rights, some J-1 teachers may feel unable to participate fully in their unions because of the close relationship between many school administrators and recruitment agencies, which can lead to intimidation and fear of deportation.¹⁰ In addition, while J-1 teachers are fully within their legal rights to participate in work stoppages and other concerted activities, certain visa rules could create uncertainty for these teachers about possible retaliation from sponsor organizations or their employers.¹¹ The lack of government oversight of recruitment and labor practices in the program is a strong factor in creating an environment rife with intimidation as few formal pathways exist for these educators to report abuses without fear of retaliation.¹²

A Case Study of Exploitation in New Mexico

The lack of regulatory structures has left J-1 teachers vulnerable to abuse.

In January 2021, the New Mexico Attorney General sued a recruitment agency, Total Teaching Solutions International (TTSI), for charging teachers excessive recruitment fees and making misleading statements about the agency's ability to help teachers obtain J-1 visas. According to the lawsuit, the recruitment agency threatened teachers with lawsuits and deportation if they did not pay their hefty monthly recruitment fees.¹³ Furthermore, there are signs of direct collaboration between TTSI and at least one employing school district - the CEO of TTSI is married to the superintendent of the school district in the town of Ruidoso. The lawsuit alleges that TTSI used its association with the superintendent of Ruidoso schools to boost its legitimacy and build connections with other New Mexico School Districts. Furthermore, the superintendent is alleged to have played an active role in attempting to collect recruitment fees from J-1 teacher program participants.¹⁴

The Attorney General's lawsuit was filed after TTSI filed lawsuits against several J-1 teachers and served them at their schools for allegedly failing to keep up with their exorbitant monthly payments to the agency. These teachers, with the help of their union, the American Federation of Teachers, successfully defeated these lawsuits and raised awareness of the exploitative conditions faced by J-1 teachers.¹⁵

But the lawsuit in New Mexico is just the latest high-profile case of recruitment agencies overcharging J-1 teachers. Until there is substantial change in the structure and regulations governing the J-1 teacher program, recruitment agencies will continue to charge steep recruitment fees that trap J-1 teachers in a cycle of debt.

Reforms Are Needed

Significant regulatory changes are necessary to address widespread problems in the larger J-1 visa program and the exchange visitor teacher program specifically. These reforms must start with the recognition that the J-1 visa program is an employment visa, not solely a cultural exchange program. The U.S. Department of State therefore needs to formalize a partnership with the U.S. Department of Labor to implement the following recommendations. This list is not exhaustive of the necessary changes but addresses the J-1 visa program's most pressing problems.

1. Broad and effective oversight is needed to guarantee that teachers working on J-1 visas have robust labor and employment protections, including wage regulations to ensure J-1 teachers are paid no less than their colleagues doing the same work.
2. Recruitment practices must be regulated to prohibit recruiters and sponsors from charging recruitment fees to J-1 teachers and hold recruiters and employers jointly liable when they benefit from abusive recruitment practices, including deceptive promises made during recruitment.
3. Teachers hired through the J-1 visa program must be informed of their legal rights and have effective mechanisms for legal recourse when their rights are violated. J-1 teachers who assert labor and employment or civil rights claims or who are critical to the effective investigation and litigation of such proceedings must have their visas extended, be granted deferred action or other affirmative relief, or be provided with support to apply for U or T visas. Additionally, existing regulations that prohibit employer and sponsor retaliation against J-1 visa program participants who engage in protected activity or assert their rights under local, state, or federal laws must be strengthened and fully enforced. Finally, the regulations that permit program sponsors to suspend J-1 program participants if they “fail to pursue the activities for which he or she was admitted to the United States,” must be clarified to explicitly state that J-1 visa program participants have the right to strike and engage in other concerted activity protected under U.S. labor law.
4. The U.S. Department of State must increase transparency within the J-1 visa program by making information about visa sponsors and beneficiaries publicly available and easily accessible to the public. This includes sponsorship, recruiter, and employer contracts and fees, occupations, wages, employers, job sites, and demographic data.

Though the J-1 teacher program is administered by the federal government, state and local policymakers also have a role to play since public school systems employ a significant portion of J-1 teachers. The *Code for the Ethical International Recruitment and Employment of Teachers*, developed by education administrators, labor leaders, and academics, provides a template for how Department of States of education and school districts can engage with the J-1 teacher program responsibly and ensure they do not replicate abusive recruitment practices in their role as employers.¹⁶

The Department for Professional Employees, AFL-CIO (DPE) comprises 24 national unions representing over four million people working in professional and technical occupations. DPE's affiliates represent teachers, physicians, engineers, computer scientists, psychologists, nurses, university professors, actors, technicians, and others in more than 200 professional occupations.

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¹ The J-1 exchange visitor program was created in 1961 by the Fulbright–Hays Act in order “to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange.” Mutual Educational and Cultural Exchange Act of 1961. 22 USC §2451.

² While this factsheet is focused on the experiences of teachers working under the J-1 visa, extensive research has been conducted about the grueling working conditions often faced by those working under the summer work travel and au pair programs. See <https://migrationthatworks.files.wordpress.com/2020/01/shining-a-light-on-summer-work.pdf> and <https://www.epi.org/blog/au-pair-lawsuit-reveals-collusion-and-large-scale-wage-theft-from-migrant-women-through-state-departments-j-1-visa-program/>.

³ Villagran, Lauren. “Foreign teachers are paying to work in New Mexico public schools. Here’s why.” Farmington Daily Times. October 29, 2018. Available at <https://www.daily-times.com/story/news/education/2018/10/16/foreign-teachers-pay-j-1-visas-nm-school-districts/1618327002/>.

⁴ “Visa Pages: U.S. Temporary Foreign Worker Visas.” Justice in Motion. January 2020. Available at <https://www.justiceinmotion.org/j1>.

⁵ *Ibid.*; <https://www.irs.gov/individuals/international-taxpayers/aliens-employed-in-the-us-social-security-taxes>

⁶ “Facts and Figures: BridgeUSA J-1 Visa Basics.” U.S. Department of State. Retrieved from <https://j1visa.state.gov/basics/facts-and-figures/>

⁷ *Ibid.*

⁸ 22 CFR Section 62.24(f).

⁹ 22 CFR Section 62.10(d) states that: “No sponsor or employee of a sponsor may threaten program termination, remove from the program, ban from the program, adversely annotate an exchange visitor’s SEVIS record, or otherwise retaliate against an exchange visitor solely because he/she has filed a complaint; instituted or caused to be instituted any proceeding; testified or is about to testify; consulted with an advocacy organization, community organization, legal assistance program or attorney about a grievance or other work-related legal matter; or exercised or asserted on behalf of himself/herself any right or protection.”

¹⁰ Mabe, Rachel. “Trafficking in Teachers.” *Oxford American*. August 25, 2020. Retrieved from <https://www.oxfordamerican.org/magazine/item/1963-trafficking-in-teachers>.

¹¹ 22 CFR Section 62.40 states that a J-1 visa program sponsor is supposed to terminate an exchange visitor’s participation in the program if they “fail to pursue the activities for which he or she was admitted to the United States.”

12 Costa, Daniel. "Guestworker diplomacy: J visas receive minimal oversight despite significant implications for the U.S. labor market." Economic Policy Institute. July 14, 2011. Retrieved from

https://www.epi.org/publication/j_visas_minimal_oversight_despite_significant_implications_for_the_labor_ma/.

13 Carillo, Edmundo. "Suit: New Mexico firm cheats Philippine teachers." Albuquerque Journal. January 5, 2021. Retrieved from <https://www.abqjournal.com/1533005/lawsuit-nm-company-taking-advantage-of-filipino-teachers.html>.

14 2nd Judicial District Court of New Mexico. State of New Mexico v. Total Teaching Solutions International, Inc. Complaint. Retrieved from

https://www.nmag.gov/uploads/PressRelease/48737699ae174b30ac51a7eb286e661f/Attorney_General_Balderas_Files_Lawsuit_Against_Total_Teaching_Solutions_Inc..pdf

15 "AFT fights exploitation of teachers from the Philippines." American Federation of Teachers. January 27, 2021. Retrieved from <https://www.aft.org/news/aft-fights-exploitation-teachers-philippines>.

16 Code for the Ethical International Recruitment and Employment of Teachers. Alliance for Ethical International Recruitment Practices. Retrieved from https://www.aft.org/sites/default/files/code_intl_recruitment_2017.pdf