

IAPA International Au Pair Association (Munich) e.V.
Oetztalerstr. 1 81373 Munich Germany

Munich, 27 January 2024

Subject: Comment Letter on Proposed US Au Pair Program Regulations RIN 1400–AF12

To Whom It May Concern:

I am writing on behalf of the IAPA International Au Pair Association (Munich) e.V. For more than 30 years we have been the collective voice for over 150 member organizations involved in the au pair sector. Our membership base is diverse, encompassing recruiting and receiving agencies, American au pair sponsors, and companies supporting the au pair community.

As an international organization our membership spans the globe. Many of our members work closely with the US Au Pair Program and have great respect for the program's strong regulatory framework. In fact, from our international perspective, I can tell you that the current US Au Pair Program regulations are internationally regarded as the "gold standard". Still, improvements are always possible so our members had been excited to learn that new regulations were published. We hoped that the minimum stipend would be increased to adjust with rising inflation. We hoped that the options for the educational component would also be expanded. We also knew that our American members needed the longstanding pre-emptive nature of the regulations explicitly formalized. Unfortunately, what started as initial hopefulness quickly changed to confusion and dismay as we saw that the regulations took a simple and effective framework of regulations and turned it into a complicated and unworkable collection of proposals that add up to a program that cannot function.

The proposed changes to the US Au Pair Program have sent unprecedented shockwaves through our community. It is IAPA's belief that the proposed regulations, in their current form, pose an existential threat to the US Au Pair Program for many reasons.

First and foremost, it is clear to us that the proposed compensation structure will drastically reduce family participation to levels that are unsustainable. We understand and agree that the minimum stipend was overdue for an increase; however, we had hoped that the stipend would be adjusted with inflation to at least \$285 per week, with the opportunity for au pairs and families to negotiate for more if they so desired. The simplicity of a reasonable and uniform minimum stipend enhances the attractiveness of the program and ensures that American families around the country can participate in the program.

The Trusted Voice for the Au Pair Community

While all au pairs have childcare experience, they are not professional childcare providers. They are adventurous young individuals interested in experiencing life in another culture while living as part of a family. Treating them solely as employees in a domestic worker capacity will create opportunities for mismatched expectations as families may believe they are paying for professional level care.

Many of the provisions in this proposed regulation run counter to the fundamental ethos of the au pair program, where an au pair is regarded as a member of the host family "on par" with other family members. This "employer-employee" focused approach disrupts the very nature of this cultural exchange, transforming it into a transactional relationship, which was never the intent of the program.

Below we specifically reference and comment on some of the most problematic provisions of this NPRM. This is not an exhaustive list of the problematic provisions but we want to focus on what is most relevant to our member community.

(§62.31(n)) The lack of a uniform compensation structure will present a serious challenge for recruiting au pairs who wish to take part in the program. The proposed structure with four separate tiers creates vastly different pay for effectively similar roles. This difference - \$400 a week in some cases - is too vast to be considered the same program. This will lead au pair candidates to only seek placements in the highest paid areas. Conversely, the new pay structure actually lowers the stipend amount of au pairs for host families in Tier 1 locations. Au pairs will be reluctant to accept offers in these locations, depriving the families of the international hosting experience.

(§62.31(l)(4)) The new provision preventing au pairs from rematching after their ninth month or during an extension period poses a significant safety concern. By restricting their ability to seek new placements, au pairs may be discouraged from reporting problems or concerns they encounter. This disincentive to raise issues could lead to situations where au pairs endure unsafe conditions rather than risk losing their placement altogether. Such a policy not only undermines the well-being of the au pairs but also jeopardizes the overall integrity and safety of the program.

(§62.31(d)(1)(iii)) While we agree that au pairs must be proficient in spoken English, we believe that this evaluation does not have to be conducted solely by the sponsor who is likely operating virtually from another country. As an international cooperator of an American sponsor, we are extremely competent in our ability to evaluate the English level of participants. We are trained by our U.S. sponsors and often work from the materials they provide. We operate in the same time zone of the au pairs and can meet with them in person. We can communicate with them in both their native language and English. To exclude us from this important aspect of the program is unnecessary and counterproductive.

(§62.31(d)(1)(iv)) The requirement that an applicant satisfactorily completed a physical exam (completed no more than 45 days prior to execution of the contract by the au pair and the host family) creates a difficult window of time to work within. It could take several weeks to schedule an appointment for a physical exam in many countries. It would make more sense to allow au pairs candidates to complete this eligibility requirement up to 12 months in advance to avoid any delays.

(§62.31(d)(1)(iv)(A)) The requirement that au pairs are fully vaccinated pursuant to the current recommendations of the Advisory Committee for Immunization Practices is extremely problematic. Many of the vaccines recommended are optional in most circumstances and not necessary for the safe completion of the program. Other vaccines may not even be available in some countries. For this reason, this provision must be amended to create a more reasonable threshold.

(§62.31(d)(2)(i)) The new provision requiring au pairs to have held a driver's license for at least one year before participating in the program would unduly restrict participation. Merely possessing a license for a certain duration does not necessarily equate to being a skilled or experienced driver. On the contrary, an individual may have held a license for a shorter period but could have undergone comprehensive driving lessons, potentially making them more competent than someone who has had a license for longer but with less practice. Mandating a one-year minimum overlooks these nuances and undermines the sponsor's ability to assess each candidate's actual driving capabilities. Therefore, it would be more prudent to leave the evaluation of an au pair's driving skills to the discretion of the sponsor and international cooperator, who can better judge their suitability in the program's context.

(§62.31(n)(2)) The stipulation that deductions for room and board may be taken only when the "employee actually receives the lodging and meals" ignores the cultural exchange hosting aspect of this program and treats the au pairs purely as employees. The idea that deductions for food only apply to meals actually received creates an unintended incentive for au pairs to skip meals. This approach not only neglects a vital cultural component of the au pair program, where shared meals can foster familial bonds and cultural exchange, but it also risks incentivizing unhealthy eating habits. By encouraging au pairs to forgo meals to avoid deductions, the provision inadvertently undermines their health and well-being. This oversight could lead to negative health outcomes and detract from the enriching experience the program is meant to offer. Similarly, au pairs could seek to avoid the housing deduction by removing themselves from the home for extended periods of time to live with friends or acquaintances. This also undermines the hosting aspect of the cultural exchange program and potentially decreases the safety of the participant.

As a result of these provisions, highly qualified applicants will likely seek exchange opportunities in other destinations like Canada, Australia, and Western Europe instead of choosing to come to the United States. Consequently, participants will not have an invaluable experience in the U.S., while American families will lose out on an opportunity to build international connections at home.

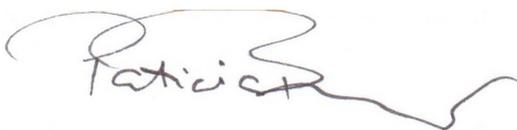
Most importantly, less participation in the program is a loss for the United States as a whole. The Au Pair Program is a unique people-to-people diplomacy program that fosters relationships with potential future leaders. Through these bonds, the U.S. strengthens its national security at the grassroots level and sets the stage for strong international cooperation years down the road. A significantly diminished Au Pair Program would hinder these important foreign policy objectives.

We understand and support the need for regulations that safeguard the interests and well-being of au pairs and host families alike. However, it is crucial that these regulations are formulated in a manner that preserves the core essence and viability of the au pair program. The proposed changes, in their current form, overlook the intricate dynamics and the mutual benefits that define this unique form of cultural exchange.

In light of these concerns, we respectfully urge the Department of State to reconsider the proposed regulations. We recommend withdrawing this NPRM and beginning a more collaborative approach, involving key stakeholders in the au pair community, to ensure that any changes made are balanced, fair, and conducive to the continued success and integrity of the program.

Thank you for considering our perspective on this matter. IAPA remains committed to supporting a thriving, responsible, and culturally rich Au Pair community.

Sincerely



Patricia Brunner
Managing Director
IAPA International Au Pair Association