Shining A Light on Summer Work

A First Look at the Employers Using the J-1 Summer Work Travel Visa

ILR INTERNATIONAL LABOR RECRUITMENT WORKING GROUP

About the International Labor Recruitment Working Group

The International Labor Recruitment Working Group (ILRWG) seeks to end the systemic abuse of workers who are recruited to the United States. The ILRWG collaborates across labor sectors and visa categories to develop comprehensive policies and advocate for reforms, including increased enforcement of existing laws and increased transparency in the labor recruitment process.[1] In 2016, the ILRWG created a dedicated committee tasked with examining and addressing the widespread and troubling abuses of J-1 workers.

For more information about

THE INTERNATIONAL LABOR RECRUITMENT WORKING GROUP

www.fairlaborrecruitment.org • info@fairlaborrecruitment.org

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[1] The following organizations and individuals are members of the ILRWG: AFL-CIO; American Federation of Teachers (AFT); Janie Chuang and Jayesh Rathod from the American University, Washington College of Law; Centro de los Derechos del Migrante, Inc.; Coalition to Abolish Slavery and Trafficking (CAST); Department for Professional Employees (DPE); Economic Policy Institute (EPI); Farmworker Justice; Farm Labor Organizing Committee; Jennifer Gordon from Fordham University School of Law; Patricia Pittman and Susan French from George Washington University; Justice at Work; Justice in Motion; National Domestic Workers Alliance; National Employment Law Project; National Guestworker Alliance, New Orleans Workers' Center for Racial Justice; National Immigration Law Center; Oxfam; Towards Justice; Polaris; Sarah Paoletti from University of Pennsylvania Law School; Safe Horizon; Service Employees International Union; Solidarity Center; Southern Poverty Law Center; UniteHere! International Union; Jennifer Hill from the University of Miami, School of Law; and Verité.

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GERRY MELENDEZ

Executive Summary

The J-1 Exchange Visitor Program was created to enhance diplomacy and foster cultural exchange, but it has strayed far from its mission. Summer Work Travel—the largest J-1 program category, and the focus of this report—has seemingly transformed from a program designed to foster international goodwill into a source of cheap and exploitable labor. As a result, hundreds of thousands of workers arrive in the United States on J-1 visas each year without adequate protections, and countless U.S. workers who struggle to find jobs in the same industries and communities are disadvantaged.

This report presents a first-ever data-informed picture of employment realities in the J-1 Summer Work Travel (SWT) program, based on analysis of data painstakingly compiled through Freedom of Information Act (FOIA) requests and other sources.[1] In 2015, nearly 95,000 J-1 SWT workers came to the United States[2] from 141 countries. Their average age was 21, and 55 percent of them were women. Despite the size of the program, the public has never had access to information about SWT employers and industries. Analysis of critical new data about the program leads to the following key findings:

SWT is a work program and needs to be regulated as one.

➨ In 2015, nearly 16,000 lead companies hired J-1 SWT workers.[3] The brands that employed the most J-1 visa holders through the SWT program are large corporations such as McDonald's, Disney, and Food Lion.

Almost
16,000
lead companies have used the J-1 SWT program. They are identified for the first time here.

➨ More than half of J-1 SWT workers were in the leisure and hospitality sector, including jobs in accommodations, food services, amusement, gambling, and recreation.

SWT is contributing to fissured workplaces through subcontracting, franchising, and other arrangements that make workers more vulnerable to abuse and disparate treatment.
In just one example, at least 33 separate companies hired J-1 SWT workers for positions related to the Holiday Inn brand in 2015.

Employers are using the SWT program to subvert the annual numerical limits on other work visa programs, like the H-2B temporary work visa program for nonagricultural jobs.
In 2015, at least 197 employers used both the SWT and H-2B programs to staff their workforce.

The SWT program is exposing young workers from around the world to unacceptable risks in the United States, including human trafficking.
➨ Sixty-seven J-1 visa holders self-reported to a hotline as victims of human trafficking between 2015 and 2017, according to Polaris. This is likely the tip of the iceberg given that U.S. employers are currently not directly regulated under the program.

➨ Six percent of J-1 SWT workers had to seek jobs after arriving in the United States, making them even more vulnerable due to lack of stable employment or income.

The severe lack of transparency in the SWT program prevents informed policymaking and undermines efforts to better protect workers.
➨ The federal government does not publish information about J-1 SWT employers or occupations, and both the U.S. departments of State and Homeland Security initially resisted requests to provide data required under the Freedom of Information Act.

➨ The data that were eventually provided were contained in large and difficult-to-use PDF files, which required at least 500 hours of processing, data entry, and coding in order to allow them to be analyzed.

Based on the insights gleaned from this report, the ILRWG outlines a concrete set of policy recommendations to restore integrity to the SWT program and adequately protect workers in affected industries and communities, including:
➨ Require that the program fulfill its original mission of cultural exchange;

➨ Guarantee that J-1 workers have robust protections under U.S. labor and employment laws and that the program does not put downward pressure on wages and working conditions in affected industries;

➨ Hold employers accountable when they mistreat J-1 SWT workers or bypass U.S. workers;

➨ Regulate the recruitment of J-1 SWT workers to protect against fraud, discrimination, fee charging, and trafficking;

➨ Provide J-1 SWT workers effective mechanisms for legal recourse when their rights are violated; and

➨ Make detailed information about the J-1 SWT program publicly available on an annual basis and easily accessible to stakeholders, policymakers, and the public.

J-1 Summer Work Travel Visas By the Numbers in 2015	
Total J-1 Visas	332,540
Total J-1 SWT Visas	94,983
J-1 SWT WORKERS	
Women	55%
Men	45%
Average Age	21
Countries of Origin	141
TOP 5 COUNTRIES OF ORIGIN FOR J-1 SWT WORKERS	
Ireland	7,001
Bulgaria	5,974
China	5,795
Romania	5,371
Ukraine	5,348
TOP 5 STATES RECEIVING J-1 SWT WORKERS	
New York	7,036
California	6,779
Massachusetts	6,532
Florida	6,394
Maryland	5,153
J-1 SWT EMPLOYERS	
Lead Companies	15,899
Distinct Employers	20,639
Employers with both SWT and H-2B	197
TOP 5 EMPLOYMENT SECTORS	
Leisure and Hospitality	53,237
Arts, Entertainment and Recreation	17,950
Retail	6,892
No Employer*	6,576
Real Estate	4,496
TOP 5 LEAD COMPANIES	
Disney	2,355
Cedar Fair Park	2,340
McDonald's	1,735
Six Flags	1,580
Xanterra Parks and Resorts	1,257

*Some J-1 SWT workers are authorized to be in the United States while not employed for periods of time during their stay, such as periods where they are seeking employment.

J-1 workers seeking cultural exchange often face difficult working and living conditions and sometimes encounter human trafficking and other dangers.

PHOTOGRAPHY BY
GERRY MELENDEZ

Background on the J-1 Exchange Visitor Program and Summer Work Travel

The U.S. Department of State (DOS) manages the Exchange Visitor Program, which DOS describes as "further[ing] foreign policy interests ... by increasing mutual understanding between people of the United States and the people of other countries by means of mutual educational and cultural exchange experiences."[4] The J-1 nonimmigrant visa classification was created to facilitate the ability of participants in the program to travel to the United States, and sometimes the Exchange Visitor Program is simply referred to as the "J-1 program."

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The J-1 Exchange Visitor Program was created by the Fulbright-Hays Act of 1961 for the purpose of promoting international understanding; it was not designed to import foreign labor and fill labor shortages.[5] However, many of the 14 current J-1 program categories created via DOS regulations authorize employment. As a result, today the J-1 visa is routinely used and perceived as a temporary work visa, or "guestworker" program. Despite this practical reality, the U.S. Department of Labor (DOL)—the United States' main federal agency charged with labor standards enforcement—does not evaluate the J-1 program's impact on the labor market or play an oversight role as it does with other temporary work visa programs.

DOS regulations outline 14 distinct categories and subcategories within the J-1 program: au pair, camp counselor, college and university students, government visitors, international visitors, physicians, professors, research scholars, high school students, short-term scholars, specialists, summer work travel, teachers, interns, and trainees.[6] Many of these categories create environments where J-1 workers face heightened vulnerability to exploitation due to factors such as geographic isolation, employment in private homes, work in dangerous industries, and lax worker protections and oversight. In 2015, DOS issued 332,540 J-1 visas to foreign nationals[7] across the 14 J-1 programs.

Of all the J-1 program categories, the Summer Work Travel Program (SWT) is by far the largest, accounting for more than one quarter of all J-1 visas issued each year. The size of the SWT program has grown significantly over the last three decades. In 1996, the first year for which data are available, there were 20,728 J-1 workers hired through SWT.[8] In 2015, 94,983 J-1 SWT workers were hired, and this hiring level has held consistent or increased slightly in subsequent years, with 104,512 J-1 SWT workers being hired in 2018.[9]

DOS describes SWT as an opportunity for, "College and University students enrolled full time and pursuing studies at post-secondary accredited academic institutions located outside the United States [to] come to the United States to share their culture and ideas with people of the United States through temporary work and travel opportunities."[10] As the program's name implies, this experience includes both work and travel. The program regulations require that jobs be of "minimal training and are seasonal or temporary in order to earn funds to help defray a portion of their expenses."[11] SWT regulations permit participants to be employed for up to four months.[12] Participants must connect with a DOS-designated "sponsor" who then, for a fee, places the participant with a U.S. employer. Sponsors can be nonprofit or for-profit entities. The cultural exchange component of the program directs sponsors to provide SWT participants with the opportunity, on and off the job, to (1) work and interact with U.S. citizens, and (2) engage in cultural activities and events that provide exposure to U.S. culture.[13]

Advocates for labor rights and standards criticize a number of aspects of the SWT program. For example, the lack of meaningful protections for victims of labor abuses and human trafficking leaves J-1 SWT workers vulnerable. As a Southern Poverty Law Center report noted, there are "few places to turn" for J-1 workers, in part because "J-1 workers cannot access federally funded legal services to help them address workplace violations."[14] Another concern is the fact that employers are exempt from paying certain payroll taxes for J-1 SWT workers, including Medicare, Social Security, and federal unemployment taxes. The resulting savings can act as an incentive for employers to hire J-1 SWT workers instead of similarly situated U.S. workers.[15] Indeed, some recruitment websites for J-1 SWT workers openly tout this benefit to employers.[16]

1996

20,728

J-1 workers were hired through the SWT program

2015

94,983

J-1 workers were hired through the SWT program

2018

104,512

J-1 workers were hired through the SWT program

PHOTOGRAPHY BY
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Findings

Based on analysis of 2015 SWT data painstakingly compiled from PDF files provided by DOS in response to Freedom of Information Act (FOIA) requests, as well as insight gained from worker cases and other sources, this report outlines five key findings.

1. SWT is a work program and needs to be regulated as one.

In 2015, 15,899 lead companies across many sectors of the economy hired J-1 SWT workers. This staggering number presents strong evidence of the program's popularity among employers. For comparison, in 2015, a review of public data on the H-2B temporary work visa program reveals that just over 4,700 employers filed applications for those visas, which allow employers to hire workers from abroad for jobs in similar occupations to SWT.[17]

The public has never before known the names and locations of the employers that hire J-1 SWT workers because DOS does not publish that information. This report sheds important new light on the program. These data clearly show that the Summer Work Travel Program is indeed a "work" program that temporarily places large numbers of seasonal workers into the U.S. labor market each year, but whether they have a meaningful cultural experience as a result of their "travel" is an open question. For example, we know anecdotally from news reports and interviews with J-1 SWT workers that they often work extremely long hours and work multiple jobs, and sometimes even need to visit soup kitchens.[18]

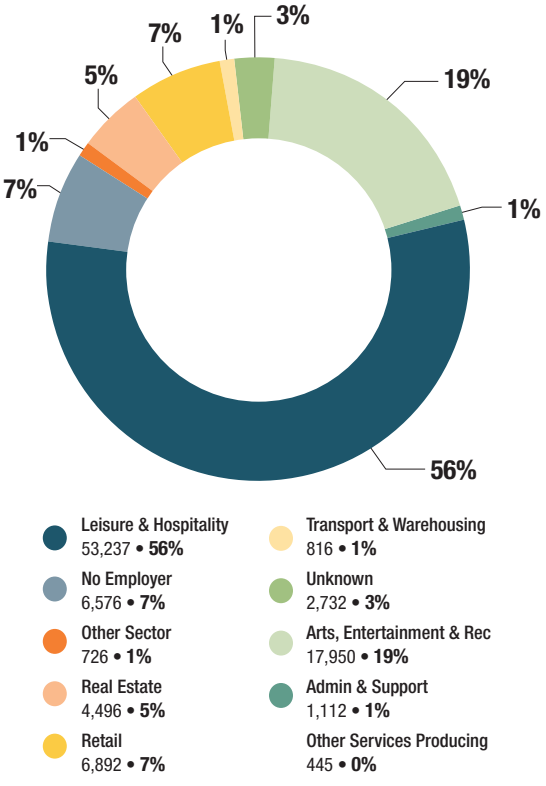


FIGURE A

2015 SWT Workers by Employer's Super (Aggregate) Sector in the North American Industry Classification System

Source: Data are from the U.S. State Department, acquired through Freedom of Information Act request, in Catherine Bowman, *Flexible Workers, Fissured Workplaces: Cultural Exchange For Hire In An Era of Precarious Labor*, Ph.D. dissertation (2019), University of Colorado.

J-1 SWT workers are concentrated in a few major industries. **Figure A** shows the share of J-1 SWT workers employed according to North American Industry Classification System (NAICS) codes, by broad (super) sector.[19] More than half of the SWT positions were in the leisure and hospitality sector, which includes a wide range of occupations. The top three NAICS subsectors in this category were accommodations; food services and drinking places; and amusement, gambling, and recreation. There were also tens of thousands of J-1 SWT workers employed in the industries of arts and entertainment, real estate, retail, and administrative services.

The top five J-1 SWT employers in major industries

The figures below highlight the top five employers in the major industries where J-1 SWT workers are employed and the number of J-1 SWT workers employed by each. Many of these employers are prominent corporations that employed a large number of J-1 SWT workers for positions around the country.

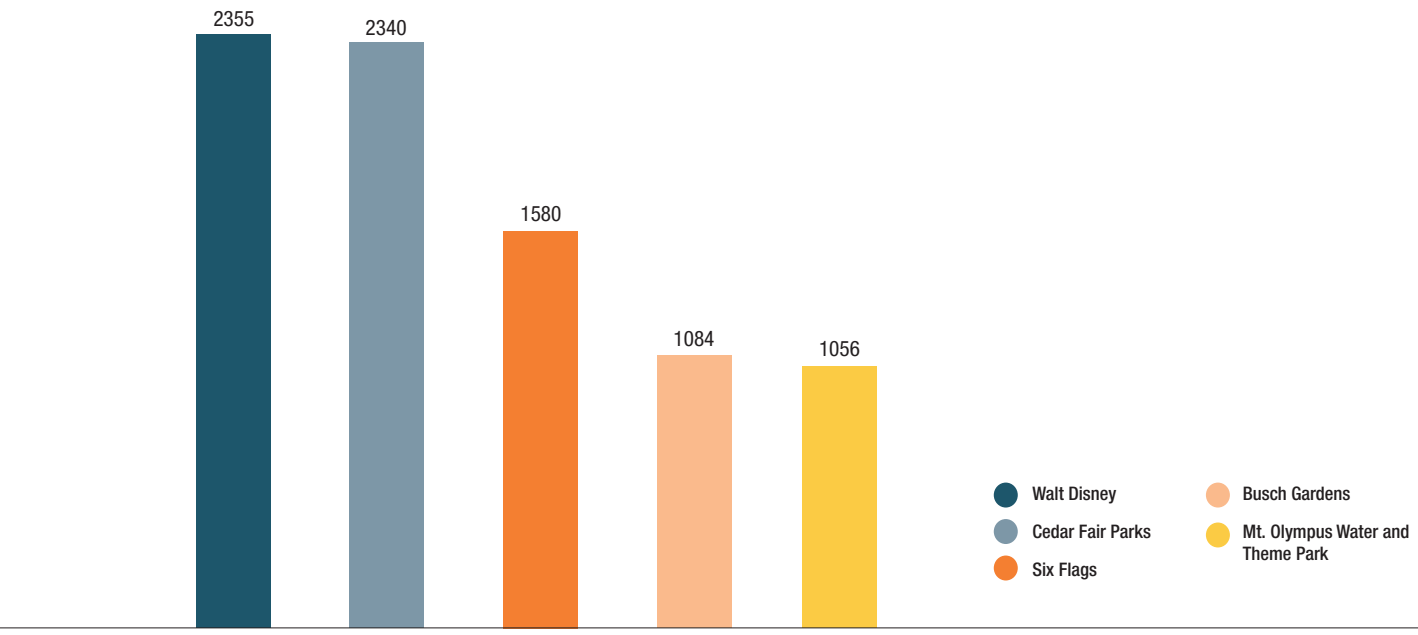


FIGURE B

Top 5 Employers by Number of J-1 SWT Workers in the Amusement, Gambling, and Recreation Industry

Source: Data are from the U.S. Department of State, acquired through Freedom of Information Act request, in Catherine Bowman, *Flexible Workers, Fissured Workplaces: Cultural Exchange For Hire In An Era of Precarious Labor,* Ph.D dissertation (2019), University of Colorado.

"In 2018, workers at Disney fought for and won a great contract with big wage increases. Before that, many had been homeless, having to work multiple jobs, or go to food pantries to survive as the cost of living went up and up in Orlando. So we know what it's like for many of the visa workers at Disney who aren't protected by a union contract. They live in our communities, and many of them are living eight to a room, paying outrageous fees to recruiters, and terrified of getting fired because they're in debt. At the same time, these are thousands of jobs that could be living wage union jobs for local workers."

ERIC CLINTON, *President, Central Florida AFL-CIO President & UNITE HERE Local 362 President*

The J-1 SWT employers shown in **Figure B** are household names, not just in the United States but internationally as well. The Walt Disney Company, the biggest employer in this group, hired 2,355 J-1 SWT workers. In 2011, Professor Kit Johnson estimated that Disney's use of the J-1 program saves them $15 million per year because the international students employed there are not covered by the collective bargaining agreements that set terms and conditions for most of Disney's unionized employees.[20] This estimate covers only wages—millions more are saved by Disney's avoidance of paying into pension plans or providing health benefits.[21] These significant financial savings create a clear incentive for employers to bypass local workers in order to hire J-1 SWT workers, and illustrate the ways in which the program can be used to drive down labor standards and weaken unions in the absence of appropriate regulations and enforcement.

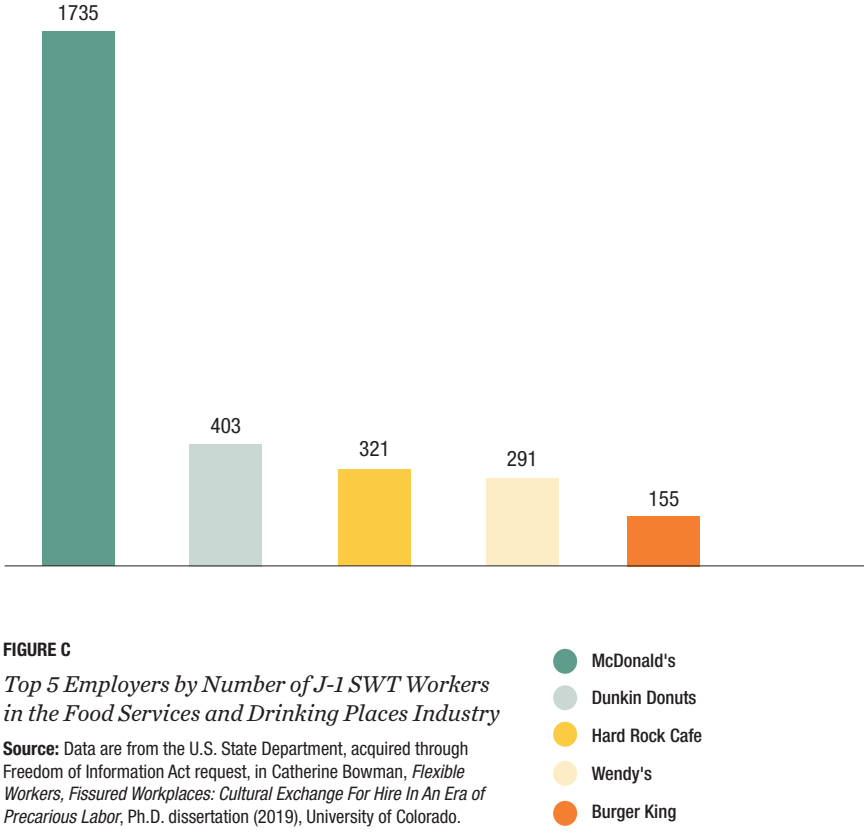


FIGURE C

Top 5 Employers by Number of J-1 SWT Workers in the Food Services and Drinking Places Industry

Source: Data are from the U.S. State Department, acquired through Freedom of Information Act request, in Catherine Bowman, *Flexible Workers, Fissured Workplaces: Cultural Exchange For Hire In An Era of Precarious Labor*, Ph.D. dissertation (2019), University of Colorado.

Figure C shows the top J-1 SWT employers in the food services and drinking places industry. All five are national fast food or restaurant chains with thousands of franchisees nationwide. McDonald's was the top employer in this industry with 1,735 J-1 SWT workers employed at franchises across 167 different zip codes. Just two years earlier, 15 J-1 SWT workers employed by a McDonald's franchise in Pennsylvania protested unfair working conditions like wage theft and long shifts that lasted as long as 25 hours, as well as substandard housing provided by their employer.[22] Their situation garnered national attention and resulted in the McDonald's franchisee being fined by DOL for minimum wage violations and forced to pay 291 fast food workers $205,977 in back wages and liquidated damages.[23] However, it did not result in McDonald's Corp. nor the individual franchisee being banned from hiring J-1 SWT workers or other temporary work visa holders.

More recently, in May 2019, McDonald's workers, supported by the Time's Up Legal Defense Fund, filed 23 complaints against the company for repeated sexual harassment, gender discrimination, and retaliation.[24] These filings were the third round of sexual harassment complaints filed against McDonald's in recent years. Four of the 2019 complaints were lodged by teenagers who had suffered sexual harassment and other abuse at the hands of McDonald's managers. A job where sexual harassment of young workers is allegedly pervasive is not an appropriate placement for J-1 SWT workers. DOS needs to reevaluate whether it is appropriate to allow McDonald's to continue to hire so many workers through the SWT program.

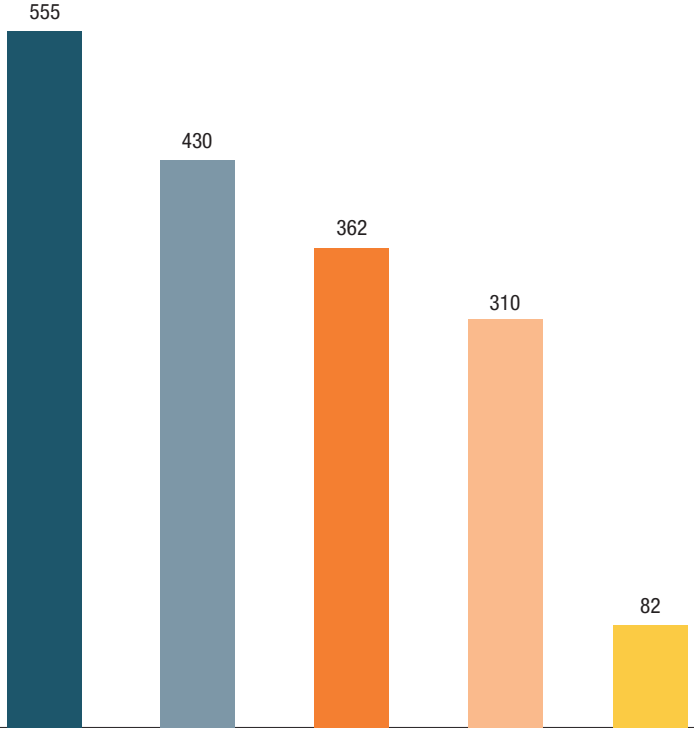


FIGURE D

Top 5 Employers by Number of J-1 SWT Workers in the Food and Beverage Stores Industry

Source: Data are from the U.S. State Department, acquired through Freedom of Information Act request, and discussed in Catherine Bowman, *Flexible Workers, Fissured Workplaces: Cultural Exchange For Hire In An Era of Precarious Labor*, Ph.D. dissertation (2019), University of Colorado.

Food Lion
Stop & Shop Supermarket
Publix
Winn-Dixie
Albertsons

Figure D shows the top employers of J-1 SWT workers in the food and beverage stores industry, which includes major grocery chains like Food Lion, Stop and Shop, and Albertsons. A significant share of the workforce in these stores is unionized. In April 2019, many employees of Stop and Shop went on strike to demand better pay and working conditions.[25] J-1 SWT employers must not be permitted to use the program to undermine collective bargaining agreements and collectively bargained wage rates.

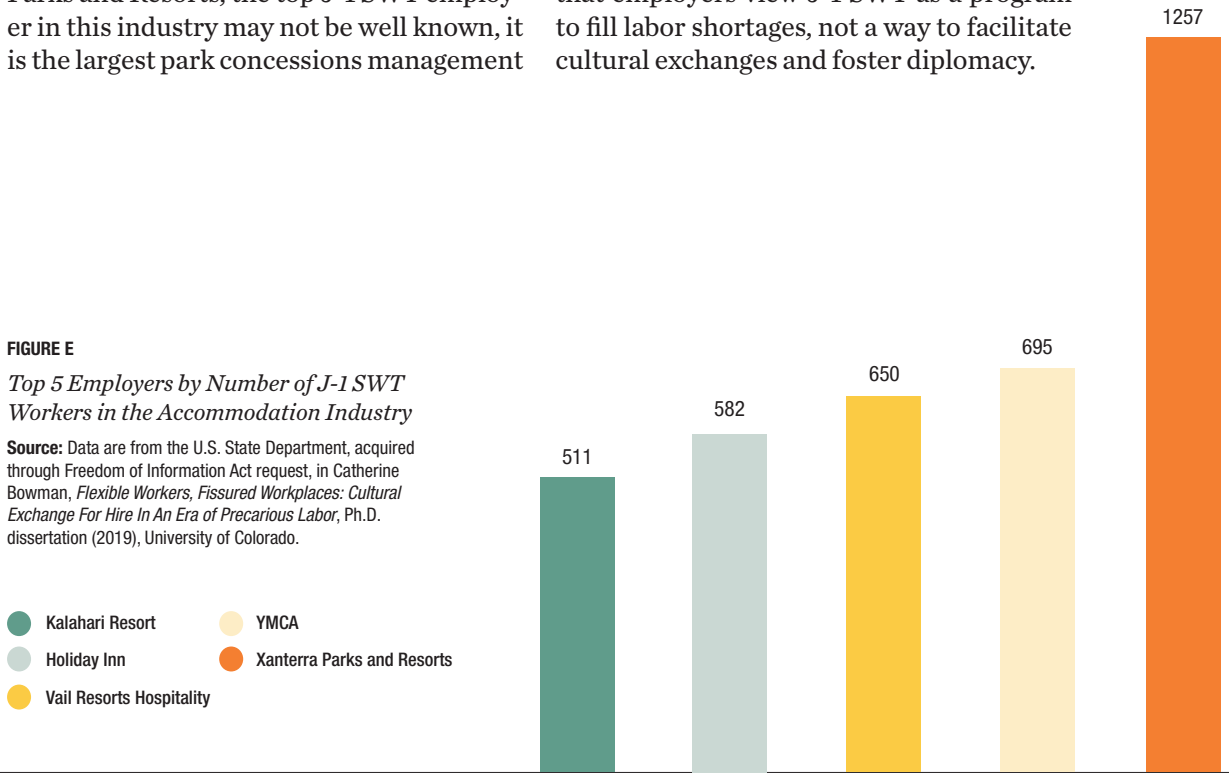
Figure E shows the top five J-1 SWT employers in the accommodation industry. The YMCA is a nonprofit organization "whose mission is to put Christian principles into practice through programs that build healthy spirit, mind and body for all,"[26] and Holiday Inn is one of the largest hotel chains in the United States. While Xanterra Parks and Resorts, the top J-1 SWT employer in this industry may not be well known, it is the largest park concessions management company in the United States. Xanterra provides services at internationally known national parks such as Yellowstone, Grand Canyon, and Mount Rushmore.[27]

In 2017, in response to reporting that the Trump administration was considering restricting or eliminating the SWT program, *Travel Weekly* reported that the CEO of Xanterra penned a letter to the Trump administration warning that eliminating the SWT program "would have a devastating impact" because more than 20 percent of its summer workforce are J-1 workers.[28] The comments made to *Travel Weekly* by other employers of J-1 SWT workers showed little concern regarding a possible loss of cultural exchange opportunities for J-1 SWT workers—instead, they cited difficulties in hiring "quality seasonal employees" and noted that businesses "would be unable to open and function" without them—strong evidence that employers view J-1 SWT as a program to fill labor shortages, not a way to facilitate cultural exchanges and foster diplomacy.

FIGURE E

Top 5 Employers by Number of J-1 SWT Workers in the Accommodation Industry

Source: Data are from the U.S. State Department, acquired through Freedom of Information Act request, in Catherine Bowman, *Flexible Workers, Fissured Workplaces: Cultural Exchange For Hire In An Era of Precarious Labor*, Ph.D. dissertation (2019), University of Colorado.



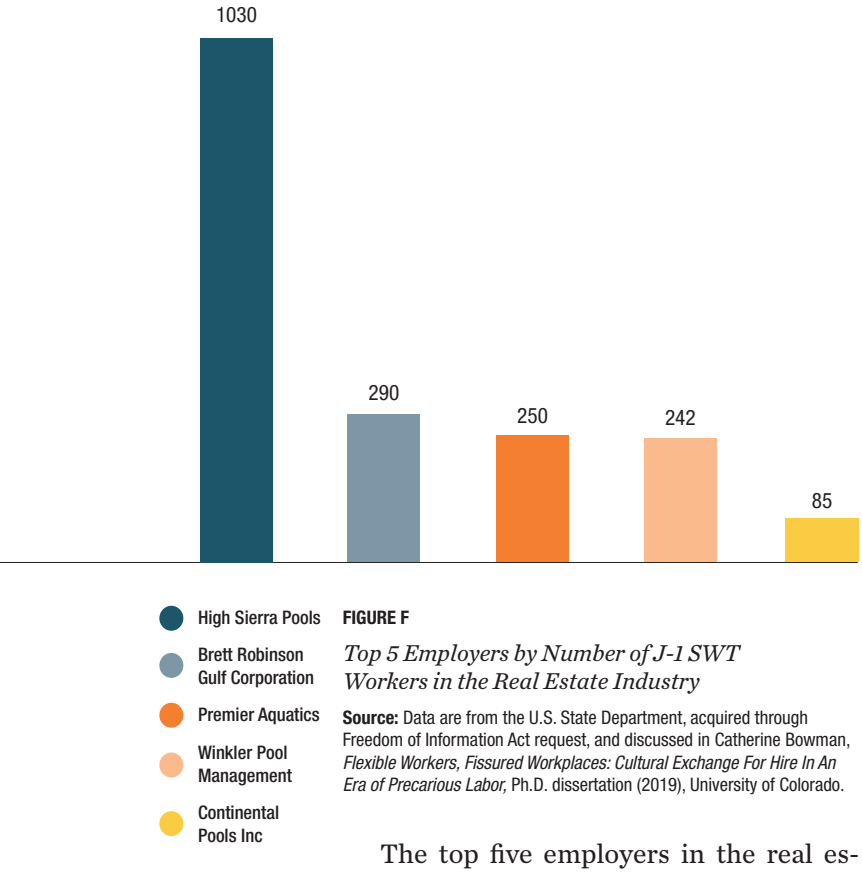


FIGURE F

Top 5 Employers by Number of J-1 SWT Workers in the Real Estate Industry

Source: Data are from the U.S. State Department, acquired through Freedom of Information Act request, and discussed in Catherine Bowman, *Flexible Workers, Fissured Workplaces: Cultural Exchange For Hire In An Era of Precarious Labor,* Ph.D. dissertation (2019), University of Colorado.

The top five employers in the real estate industry listed in **Figure F** are lesser-known firms in the swimming pool management or vacation rental management business. Anecdotal evidence suggests that many J-1 SWT workers employed in this industry work as lifeguards or housekeepers. For example, a 2018 report in the *New York Post* detailed a number of employers in New York and New Jersey complaining of facing labor shortages at swimming pools due to increased scrutiny of J-1 visa applications. The president of American Pool in New Jersey noted that visa issues have "set off a 'bidding war' for students as young as 15" to work in area swimming pools.[29]

Low Wages and Lax Oversight

The most common occupations for J-1 SWT workers—lifeguards, amusement park attendants, and hotel room cleaners—also pay among the lowest wages in the U.S. labor market, just barely above the federal minimum wage,[30] and are often associated with high rates of labor violations. Therefore, in order to prevent further downward pressure on already low wages, employers using the program should be required to pay J-1 SWT workers a fair wage according to local standards. However, the J-1 SWT regulations do not include a clear and enforceable rule establishing the minimum wage levels that J-1 SWT workers should be paid, unlike other temporary work visa programs like the H-2A and H-2B programs.[31]

Furthermore, DOL has no oversight or enforcement role in the J-1 program and no mandate to protect J-1 SWT workers, except in cases where they are not paid the state or federal minimum wage. This glaring gap in the SWT regulatory framework is even more troubling when you consider the safety equipment and training needs of seasonal workers in such a diverse range of job types. Are J-1 SWT workers being adequately trained and prepared to avoid workplace injuries? The public does not know and DOS regulations do not require it.

2. The SWT program is contributing to fissured workplaces through subcontracting, franchising, and other arrangements that make workers more vulnerable to abuse and disparate treatment.

Although there were nearly 16,000 lead companies or brands hiring workers through the SWT program, the actual number of distinct employers who benefited from these workers is much larger. For instance, as Dr. Catherine Bowman points out in her exploration of the relationship between fissuring and the SWT program, at least 33 separate companies hired J-1 SWT workers for positions related to the Holiday Inn brand alone. This diverse array of subcontractors all connected to a single hotel chain highlights the diffuse nature of modern corporate employment practices.

The most common occupations for J-1 SWT workers also pay among the lowest wages in the U.S. labor market.

Arrangements that lead to fissuring[32] allow businesses to distance themselves from formal employment relationships in order to avoid paying payroll taxes, providing benefits, and meeting other obligations of formal employers. The extensive use of subcontracting to fissure the traditional employment relationship disempowers workers and opens the door to many problematic issues such as making skills obsolete, enabling disparate treatment, and diminishing worker protections and opportunities. In fact, according to former DOL Wage and Hour Administrator David Weil, "the fissured workplace contributes to growing earnings inequality."[33] Our visa system should not help to fuel this destructive trend.

Third-party employers and subcontracting companies should be prohibited from using temporary work visa programs like J-1 SWT. Adding bureaucratic layers to the work arrangement for young foreign students employed in the United States only makes their status more precarious and the system more confusing. The negative consequences of allowing J-1 SWT students to work for subcontractors was on display in 2011 when hundreds of J-1 SWT workers employed by multiple layers of subcontractors walked out of a plant in Pennsylvania that packs

FIGURE G

Holiday Inn Contracting Arrangements in J-1 SWT Program:

A list of the many businesses contracting J-1 SWT workers for employment at Holiday Inn hotels in the U.S.

Source: Data and figure are from the U.S. State Department, acquired through Freedom of Information Act request, in Catherine Bowman, *Flexible Workers, Fissured Workplaces: Cultural Exchange For Hire In An Era of Precarious Labor*, Ph.D. dissertation (2019), University of Colorado.

JOHN C. WHITEHEAD/AP IMAGES

In 2011, hundreds of J-1 SWT workers employed by subcontractors protested work conditions at a plant that packs Hershey's chocolates.

Hershey's chocolates to protest working conditions.[34] At a minimum, J-1 sponsors should be required to disclose all details about any third-party or subcontracting arrangements that may exist with companies where they place J-1 SWT workers.

Large chains such as McDonald's and their franchisees are also using the SWT program extensively, despite sexual harassment charges[35] and findings of unfair labor practices, including failure to pay minimum wage and overtime.[36] Franchises contribute to fissuring by distancing individual workplaces from the parent or lead company in an effort to avoid the responsibilities that should come from appropriate joint-employer designations. Federal agencies with oversight authority need to understand the vulnerabilities these employment relationships create for J-1 SWT workers and assess proposed franchisee job placements carefully to prevent exploitation and the erosion of labor standards. DOS should work with DOL to promulgate and enforce a new rule that prohibits companies or brands with a history of labor violations, whether direct or through subcontractors or franchisees, from hiring J-1 SWT workers.

Given the prevalent use of the SWT program by unionized employers like Disney, Food Lion and Stop and Shop, DOS regulations also need to ensure that SWT hiring does not undercut collectively bargained wage and benefits packages. J-1 SWT workers at union facilities should be extended the same rights, benefits, and protections as those stipulated in the collective agreement, whether or not they are hired through third parties.

RICHARD LEVINE / ALAMY STOCK PHOTO

In 2013, the treatment of J-1 students working at a McDonald's restaurant sparked protest.

3. Employers are using the SWT program to subvert the numerical limits on other temporary work visa programs, like H-2B.

Some of the United States' other major temporary work visa programs offer some degree of labor protections and/or have Congressionally mandated annual limits or "caps" on the number of visas that can be issued in any given year. The appropriate number for these caps is hotly debated every year, and they are set through legislation to prevent overuse and misuse of temporary work visas.

However, savvy employers frustrated by rules in the H-2A and H-2B temporary work visa program, or the caps in the H-2B program, have discovered that they can "shop" around for other visas instead. Indeed, the J-1 visa provides an attractive alternative because it lacks any of the basic labor protections—like minimum wage rules or a requirement that employers advertise jobs to local workers before hiring a migrant worker—which employers often decry as "burdensome" or "overly bureaucratic."

Our analysis found that in 2015, at least 197 employers used both the SWT and H-2B programs to staff their workforces.[37] Hiring through both visa programs further challenges the notion that the SWT program is a meaningful cultural exchange, and leads to problematic situations where employees at the same workplace have different visa statuses with different rules and wage rates applying to each.

One example of a company using both the SWT and H-2B visa programs in 2015 was Six Flags, which filed labor certifications with DOL to hire 255 H-2B workers to work in food service and as amusement attendants. They were also one of the biggest employers in the SWT program that year, hiring 1,580 J-1 SWT workers, likely to perform similar work to the H-2B employees.

197

Employers hired workers using both "shortage" H-2B visas and "exchange" J-1 visas

In another example, 13 students participating in the SWT program from the Dominican Republic lodged a complaint with DOS in 2016 detailing their poor working conditions. The students were promised opportunities to experience American culture while working at resorts and ice cream shops. Instead, they were shuttled around by a labor broker to various hotels to perform grueling housekeeping and laundry jobs that offered little opportunity for cultural exchange, according to the complaint. This arrangement allowed sponsors to make money from the students by charging them fees before passing the responsibility for the students onto the labor broker, who then shopped the students around to hotels for sporadic work. When the students were not at work, they lived in cramped and substandard housing arranged by the labor broker where they were each charged $90 per week in rent, according to the complaint. Eight workers were placed in a small, bedbug-infested apartment with one bathroom. When a student complained about the work and housing conditions, an official with the labor broker said "troublemakers" would be kicked out of the J-1 program, even though on paper DOS regulations bar retaliation against J-1 workers over complaints.

That same year, the labor broker received authorization from DOL to hire H-2B workers to perform the same work that the J-1 SWT workers it hired were performing, often side-by-side in the hotels. But rather than being treated equally and paid the same wages, the labor broker took advantage of the SWT program's lack of a clear wage rule to pay those J-1 SWT workers nearly $1 less per hour than the government-mandated prevailing wage the H-2B workers were paid. The labor broker's practice of using multiple visas and acting as a de facto staffing firm allowed it to circumvent critical protections for U.S. workers, such as the H-2B program's cap and prevailing wage requirements.[38]

One recent Bloomberg Law report detailed a Minnesota Supreme Court case involving John Svihel, a farm owner in Minnesota, who employed both H-2A and J-1 workers to work as farmworkers.[39] The case centered around whether Svihel was required to pay state unemployment taxes despite not being required to pay federal taxes for his H-2A and J-1 workers. The H-2A temporary work visa program requires that employers recruit U.S. workers before hiring migrant workers, provide housing and transportation to H-2A employees, and pay migrant workers an adverse effect wage rate (AEWR)[40] to protect local wage standards. The J-1 programs that authorize employment, including SWT, do not include such requirements. The fact that Svihel was employing farmworkers with H-2A visas and J-1 workers to do the same jobs is a strong indication that J-1 visas were being used by Svihel to fill a labor shortage, avoid paying the AEWR, and avoid paying for transportation and housing.

In addition, Svihel was hiring migrant workers with temporary work visas after blatantly violating labor and immigration laws for many years. In 2016, the Obama DOL held Svihel liable for $576,707 in back pay and restitution to 76 workers and determined that he also owed $199,218 from 36 workers from Mexico and Eastern Europe on H-2A and J-1 visas.[41] In 2017, Svihel and his labor recruiter were also sentenced to prison for visa fraud and for charging illegal fees to workers.[42] Svihel had to pay $772,000 into a fund and agreed to an "enhanced compliance" program, which suggests Svihel continued to hire workers with temporary visas after these violations.

Yet another example of visa shopping comes from one of the largest J-1 SWT employers: Disney. Disney hired 2,355 J-1 SWT workers in 2015, a staggering number considering that Disney is also known to hire workers through a variety of other temporary work visa programs—including voca-

Thirteen J-1 SWT workers filed a complaint in 2016 describing grueling work conditions at hotels with little cultural exchange.

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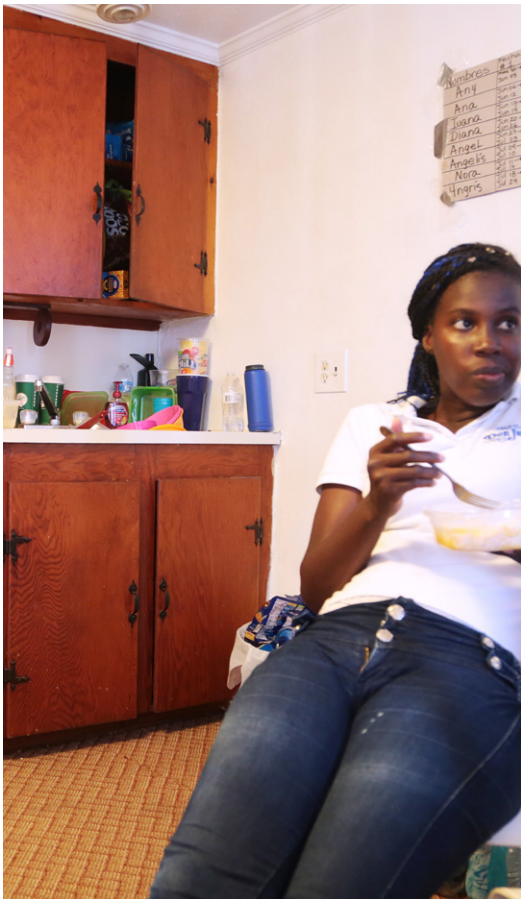
GERRY MELENDEZ

Eight workers were placed in a small, bedbug-infested apartment with one bathroom.

tional students on M visas, intra-company transferees with L-1 visas, H-2B workers in non-agricultural jobs, trainees with H-3 visas, and treaty investors with E-2 visas—as well as having successfully lobbied for the creation of its own temporary work visa program, the Q visa.[43] In 2015, 1,900 Q visas were issued by DOS.[44] Although data are not available to confirm if all 1,900 were hired by Disney companies in 2015, it is likely that at least a significant share—approximately two-thirds, according to previous years—became Disney employees.[45] According to an estimate by Professor Kit Johnson, Disney saves $19 million per year on labor costs by using the Q visa, in addition to the $15 million they save through J-1 hires.[46]

2,355
is the number of J-1 SWT workers Disney hired in 2015.

$15 Million
is the amount of money Disney is estimated to have saved through J-1 hires.



A group of J-1 SWT workers from the Dominican Republic, including this student, say they were shopped around to various hotels for sporadic and grueling work.

PHOTOGRAPHY BY
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4. The SWT program is exposing young workers from around the world to unacceptable risks in the United States—including human trafficking—and the State Department's system for accountability is flawed and failing.

In 2015 alone, employers hired 94,983 J-1 SWT workers from 141 countries, who had an average age of 21. Over half—55 percent—of J-1 SWT workers were women. Unfortunately, inadequate regulations and virtually nonexistent enforcement in the SWT program exposes these eager young workers to unacceptable levels of risk. J-1 SWT workers routinely report complaints about their treatment in the United States, including deplorable working and living conditions and frequent misrepresentations regarding the nature of the work they will be doing and the pay and benefits they will receive. In some cases, the abuses and exploitation of J-1 SWT workers is so prevalent in an area that law enforcement officials take it upon themselves to do meetings and outreach to J-1 SWT workers in order to inform them about their rights, as they've done in South Carolina and Florida, for example.[47]

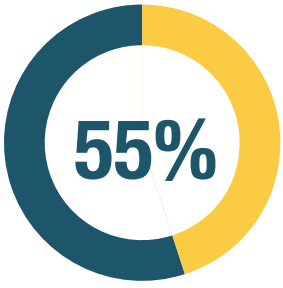
One anecdote that was submitted as testimony to the Maryland Legislature helps illustrate the inherent vulnerability of J-1 SWT workers: In 2015, Oliver Benzon Martinez traveled to Ocean City, Maryland, to work as a cook with a J-1 SWT visa. He left his home in the Dominican Republic with the dream and expectation that he would not only get to experience American culture, but also earn enough money to send some home to his family. The reality he faced was starkly different than what he was promised. He arrived at the worksite only to find that the restaurant was not ready for business. Instead of cooking, he was ordered to do construction work. His assignments included carrying and moving heavy kitchen equip-

ment, despite the fact that DOS had banned this type of hard labor from the SWT program in 2012 because of safety concerns.[48] After two weeks of work, Oliver received a paycheck for only a small percentage of the hours he had worked. Oliver describes that summer as traumatic and hopes no future J-1 workers will have the same experience he had alone in a foreign country.[49]

Sadly, abuses in the SWT program sometimes escalate beyond wage theft and reach the level of trafficking. The Human Trafficking Legal Center has documented at least five civil or criminal trafficking cases for J-1 workers in recent years. This is an alarming number given the practical difficulty of bringing such cases to trial and the short duration of J-1 visas. Many cases go unreported or are never pursued because J-1 SWT workers are required to depart the country soon after their program ends.

From 2015 through 2017, the anti-trafficking organization Polaris identified 67 victims of trafficking who held a J-1 visa at the time that they reported abuse to the National Human Trafficking Hotline. Six of the 67 J-1 visa holders who reported trafficking identified as potential sex trafficking victims. The 67 J-1 workers who called the hotline did not identify what type of work they were doing with their visas.[50]

During the summer of 2011, a Miami Beach company recruited two young women from Kazakhstan through the SWT program to work at the Janardana's Yoga and Wellness Studio. The business owner, Jeffrey Jason Cooper, told the recruitment agency that he needed clerical workers to answer his phones and help plan wellness retreats. Two J-1 SWT workers paid hefty fees and traveled to the United States, only to find that the yoga studio did not exist. Instead, they were expected to work at a massage parlor and perform illegal sex acts. Online advertisements for the parlor promised "Beautiful ladies from Kyrgyzstan, Uzbekistan, Belarus, and Ukraine offering Sensual Body rubs," despite the fact that this type of work, along with work in gambling establishments and strip clubs, is prohibited under the SWT program. After the young women arrived, they were given detailed instructions about the commercial sex acts they were expected to perform at Cooper's massage parlor. They managed to escape after several months of being victimized after neighbors complained to law enforcement. Cooper was sentenced to 30 years in federal prison after a jury convicted him on 11 charges, including sex trafficking by force.[51]



Fifty-five percent of the 94,938 J-1 SWT workers hired in 2015 were women.

In another case, workers recruited from Jamaica and other countries to work for hospitality businesses in Oklahoma through the SWT program filed a federal labor trafficking lawsuit in 2018, alleging they were induced to pay high recruitment fees in order to secure employment, compensated less than they had been promised, denied the full-time hours they were told they would be able to work, charged high rent for crowded and inadequate housing, and threatened with financial and/or physical harm if they left their jobs. The workers were inspired to take legal action when they learned that H-2B guestworkers had filed suit against the same employers a year earlier. Defendants Walter and Carolyn Schum-

Workers recruited in 2018 for a hospitality business alleged they...

- paid high recruitment fees
- were compensated less than promised
- were denied full-time hours
- were charged high rent for crowded, inadequate housing
- were threatened with financial and/or physical harm if they quit

acher are accused of getting away with abuses for some time because they controlled both the businesses that employed the J-1 SWT workers and the sponsor organization, which in theory was responsible for protecting the safety of J-1 SWT workers and advocating on their behalf. The Schumachers, according to the lawsuit, ignored complaints of low pay, irregular hours, and inadequate housing, and convinced their J-1 employees that they would suffer serious harm if they did not continue to work for their companies. The workers earned so little they were barely able to pay their expenses in Oklahoma, much less return home and repay the thousands of dollars' worth of loans they had taken out to pay recruitment fees and travel expenses.[52]

The allegations in the Schumacher case illustrate the disastrous consequences of the wholly inadequate enforcement and accountability system that DOS has created in the J-1 SWT program. Other than claims of occasional, voluntary audits of worksites where J-1 SWT workers are present, DOS does not undertake labor enforcement actions against employers that hire J-1 SWT workers or directly regulate them. In fact, DOS has explicitly acknowledged in regulations that it does not have jurisdiction over J-1 employers, and in any case it would not have the appropriate staff expertise to adequately regulate them. Rather than partner formally with DOL to monitor employers, DOS makes sponsor organizations responsible for the safety of J-1 SWT workers and for vetting employers and job opportunities. However, sponsors are not neutral arbiters that can adequately safeguard the interests of J-1 SWT workers because they benefit financially from placing workers with employers and would stand to lose business and profit if it came to light that abuses had occurred in the program under their watch. This glaring conflict of interest—combined with the fact that sponsors are not labor standards enforcement experts and do not have the requisite expertise to regulate employers either—creates an irrational enforcement regime and a dangerous environment permissive of wage theft, labor abuses, and human trafficking. Sadly, the few examples listed here are likely just the tip of the iceberg.

Another element of the SWT program that contributes to the vulnerability of J-1 SWT workers is that some arrive in the United States without knowing where they will be employed, or if they will be employed at all. Under DOS regulations, J-1 SWT workers hailing from countries that participate in the U.S. Visa Waiver Program are permitted to find a job after arriving in the United States, which is also after they have paid thousands of dollars in fees, travel, and housing costs;[53] the rest must secure employment before arriving in the United States. In the SWT data reviewed for this report, there were 6,576 entries for J-1 SWT workers that had no employer listed.[54] Eight hundred eighteen of those entries were listed as "on travel" meaning the J-1 SWT workers were not currently employed and were using the time to travel, as permitted by DOS regulations. The remain-

ing 5,758 entries were listed as "seeking employment" or "exempt from pre-placement," accounting for approximately 6 percent of all J-1 SWT workers. Those workers were either looking for a job or between jobs on the date that the SWT data was generated from the Student and Exchange Visitor Information System (SEVIS) database. J-1 SWT workers who are seeking employment, either immediately after arriving in the United States or during their program, are inherently vulnerable by virtue of not having stable employment or income.

5. There is a lack of transparency in the SWT program, and we cannot have informed policymaking without it.

Data like those examined in this report are essential to better understand the SWT program and determine what types of regulations and enforcement are required in order to govern the program in a way that is fair to young foreign students and other workers in affected industries. The lack of public access to such basic information is another factor that allows abuses like those described above to persist.

The few data sources available on J-1 SWT workers are retroactive, aggregated, and lacking in important details. DOS' de facto temporary work visa program—barely disguised as a tool of diplomacy—fails to provide accurate, detailed, micro-level data in real time. The first real opportunity the public will have to know which companies use the SWT program for their staffing needs is this report, which was made possible only through difficult and time-consuming efforts to extract information through Freedom of Information Act (FOIA) request. As the section below describing the process for obtaining the data for this report makes clear, the FOIA process is not an efficient or an effective mechanism to gather necessary and timely insight on the SWT program.

The time-consuming process required to obtain the data for this report clearly illustrates the need for more transparency in the J-1 program. Acquiring SWT program data through a FOIA request was neither easy nor straightforward. The data used in this report were requested, organized, and analyzed by Dr. Catherine Bowman, while she was a Ph.D. candidate at the University of Colorado, Boulder, as part of her doctoral dissertation. The process for procuring these data originated with a FOIA request to DHS[55] on April 6, 2015, for information on J-1 SWT workers that included a solicitation for demographic and employment placement data for SWT program participants for the years 2012-2014. That request was denied, with DHS contending that DOS is the appropriate federal agency to request SWT information from, since the program is under the purview of DOS.

Based on DHS' denial, a FOIA request was submitted to DOS for the same SWT employment and demographic information. Thirteen months later, on June 30, 2016, DOS also denied the April 2015 FOIA request for J-1 SWT information. DOS explained that J-1 SWT data was housed in the Student and Exchange Visitor Information System (SEVIS), which was "owned and maintained" by DHS, and as such, recommended that the request be directed back to DHS. Based on information from a DOS contact, a second request for SWT data from DOS was made; however, this time it was granted, but was restricted to data on 2015 participants only.

On Oct. 17, 2016, 18 months after the initial request, the 2015 SWT data requested from DOS finally arrived on a compact disc. However, the format of the data proved problematic, as they were presented as a 2,639-page scanned document in an Adobe Portable Document Format (PDF). The next year and a half was spent on data entry and con-

Obtaining the data required waiting **18 months.** It then took **500+ hours of work** to make the data usable.

version, transforming the information on the PDF into a useable spreadsheet format.

Obtaining the data via FOIA request required waiting over 18 months and more than 500 hours of work by the lead researcher and a paid research assistant to code the data by industry (which required many meetings and discussions with labor market and immigration experts) and to manually input the information into a spreadsheet. Transparency in the SWT program should not require this much time, effort, cost, and persistence. It would cost DOS virtually nothing to make these data—which are already collected and stored electronically—available to the public in a useable format on an annual basis, perhaps on the "Facts and Figures" section of DOS' J-1 Exchange Visitor Program website.[56]

In order to prevent exploitation and ensure the integrity of a program designed at least in part to promote cultural exchange, stakeholders need access to real-time micro level data published electronically—and in a searchable format—on the employers that use the SWT program, the wages they offer, the occupations they will fill, and the locations of the worksites. DOS should also require employers to advertise open positions so that the U.S. public has an opportunity to apply for them. And members of the public and worker advocacy organizations should be allowed to challenge the legitimacy of the required minimum or prevailing wage rates and job classifications, in case they are misrepresented by employers.

Recommendations

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The ILRWG urges that the following reforms be implemented in order to protect workers and bring integrity to the J-1 Summer Work Travel program:

Renewed Purpose

Require that the program fulfill its original mission of cultural exchange

➨ Expressly define the cultural exchange requirements of the program.

➨ Prevent J-1 SWT workers from being overworked and preserve sufficient time for each to engage in meaningful cultural activities away from work.

➨ Conduct a study to assess the impact of the SWT program on U.S. youth employment and explore the prospects for shifting toward a reciprocal exchange model that also affords U.S. youth opportunities to travel and work abroad.

Effective Oversight

Guarantee that J-1 workers have robust labor and employment protections and that the program does not adversely affect the wages and working conditions of U.S. workers

➨ Create a meaningful role for the U.S. Department of Labor to oversee the work-related aspects of the J-1 SWT program.

➨ Require DOL to assess the impact of the program on the domestic workforce and implement regulations to protect all workers and raise labor standards for impacted industries.

➨ Require sponsors and employers to pay J-1 SWT workers prevailing wages and respect union collective bargaining agreements.

➨ Permit members of the public and worker advocacy organizations to challenge the legitimacy of posted wage rates and job classifications.

➨ Prohibit J-1 SWT workers from being employed in occupations that are dangerous or lack cultural interaction, including housekeeping, modeling, and janitorial services, occupations DOS has identified in regulations as being "frequently associated with trafficking in persons."

➨ Institute a numerical limit on the number of J-1 SWT workers that any single employer or brand may hire per year.

➨ Fund effective oversight of sponsor and employer compliance with program rules.

➨ Clarify the process for decertifying sponsors and barring employers who violate labor and/or employment laws.

➨ Require employers to certify that they will comply with all program regulations and applicable federal and state laws before each placement.

➨ Create and publish a list of employers and responsible business agents or representatives that are banned from the program for violating labor, employment, and other workplace laws.

➨ Require worker orientation programs upon arrival to the U.S. that include review of employment rights under local, state, and federal law.

➨ Create an exit interview survey tool that is not administered by sponsors to collect information from each J-1 worker to inform annual reporting and continuous program improvement.

➨ Ban third-party employers from the program and better regulate subcontractors.

Fair Recruitment

Regulate the recruitment of J-1 workers to protect against fraud, discrimination, and human trafficking

➨ Prohibit recruiters and designated J-1 sponsors from charging recruitment fees to J-1 SWT workers.

➨ Hold sponsors and employers jointly liable when they benefit from abusive recruitment practices, including deceptive promises during recruitment.

➨ Require employers to bear the cost of recruiting and transporting J-1 workers to the United States.

➨ Take steps to establish a clear and enforceable employment contract between the sponsor, employer, and J-1 SWT worker.

➨ Include protections for J-1 workers in future legislation that regulates international labor recruitment.

➨ Require employers to advertise open positions on a public database for 30 days before hiring J-1 SWT workers so that U.S. workers have an opportunity to apply.

➨ Require employers of J-1 SWT workers to pay an amount equal to the payroll taxes they would have been required to pay if they had hired a U.S. worker, and use the money collected to create a new fund to combat youth unemployment in the United States.

Access to Justice

Provide J-1 workers effective mechanisms for legal recourse when their rights are violated

➨ Offer temporary visa status or deferred action and work authorization to J-1 SWT workers who assert labor or civil rights claims during the pendency of any proceedings.

➨ Create mechanisms at U.S. embassies for J-1 SWT workers to file complaints when

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they return to their home countries if they are unable to pursue their claims in the United States.

➨ Enforce regulations explicitly prohibiting employer and sponsor retaliation against J-1 SWT workers who engage in protected activity or assert their rights under any local, state, or federal law.

➨ Make J-1 SWT workers eligible for federally funded legal services so they have meaningful access to justice in the United States.

➨ Create a private right of action so that J-1 workers can hold sponsors, employers, and recruiters liable in federal court when violations of program regulations or workers' rights occur.

Transparency

Make information about the J-1 program publicly available and easily accessible to stakeholders and the public

➨ Mandate that public disclosures include the promises and offers made to J-1 SWT workers by recruiters and sponsors as well as fees charged to workers in the chain of recruitment.

➨ Publish J-1 SWT occupations, wages, employers, job sites and demographic data needed to prevent discrimination (countries of origin, age, and gender) in a timely and useable fashion on a publicly accessible website.

Appendix A

J-1 Summer Work Travel workers by state, 2015-2018				
	2015	2016	2017	2018
Alabama	781	812	829	754
Alaska	1,696	2,072	1,965	1,954
Arizona	849	785	776	848
Arkansas	114	172	130	149
California	6,779	5,084	5,692	5,747
Colorado	4,375	4,675	5,403	6,084
Connecticut	654	658	674	640
Delaware	1,208	1,660	1,728	1,672
District of Columbia	296	206	173	157
Florida	6,394	6,788	5,960	5,687
Georgia	410	344	374	391
Hawaii	392	326	494	484
Idaho	382	484	586	684
Illinois	1,345	1,560	1,773	1,314
Indiana	265	199	305	330
Iowa	287	346	400	453
Kansas	86	54	77	44
Kentucky	152	102	165	172
Louisiana	210	172	143	128
Maine	2,185	2,550	2,855	3,097
Maryland	5,824	5,999	5,730	5,557
Massachusetts	6,532	6,987	7,090	6,588
Michigan	1,052	1,271	1,522	1,723
Minnesota	1,163	1,625	1,743	1,728
Mississippi	52	16	19	21
Missouri†	737	904	1,222	1,264
Montana	1,660	1,911	2,021	1,929
Nebraska	97	76	94	83

J-1 Summer Work Travel workers by state, 2015-2018 (cont.)				
	2015	2016	2017	2018
Nevada	779	1,199	1,309	1,638
New Hampshire	2,046	2,165	2,437	2,611
New Jersey	4,787	5,371	5,083	4,707
New Mexico	169	197	225	328
New York	7,036	6,684	6,986	6,950
North Carolina	1,921	2,226	2,472	2,715
North Dakota	407	242	231	236
Ohio	2,646	3,041	3,217	3,332
Oklahoma	29	36	35	76
Oregon	209	273	337	363
Pennsylvania	2,609	2,831	2,990	3,014
Puerto Rico	0	No Data	No Data	5
Rhode Island	792	749	833	862
South Carolina	3,852	4,235	3,967	3,491
South Dakota	1,153	1,142	1,135	1,098
Tennessee	1,373	1,745	1,759	1,797
Texas	3,034	2,955	3,071	2,788
Utah	1,882	2,318	2,620	3,017
Vermont	1,195	1,373	1,502	1,531
Virginia	5,096	5,418	5,211	4,698
Washington	483	505	552	620
West Virginia	345	423	414	359
Wisconsin	5,153	5,939	6,285	6,299
Wyoming	2,001	2,149	2,307	2,295
TOTALS	94,974	101,054	104,921	104,512

Source: U.S. Department of State, "Facts and Figures," Exchange Visitor Program website, https://j1visa.state.gov/basics/facts-and-figures/.

Appendix B

Principles for Fair Recruitment

The ILRWG has developed a list of eight principles that should be ensured in any visa program that recruits international workers to the U.S., including programs that may also contain a cultural exchange component. These principles should inform the regulations, structure, and enforcement of the J-1 Summer Work and Travel program, among myriad other work visa categories:

1. Freedom from Discrimination and Retaliation. Workers have the right to a recruitment and employment experience free of discrimination and retaliation.

2. Right to Know The Process and Their Rights. Workers have the right to be informed in a language they understand about the recruitment process and their rights under U.S. work visa programs.

3. Freedom from Economic Coercion. Workers shall have the right to freedom from economic coercion in U.S. work visa programs and should not be charged recruitment fees.

4. Right to Receive a Contract with Fair Terms and to Give Informed Consent. Workers shall have the right to a legal employment contract that respects their rights and the right to provide informed consent before being hired.

5. Employer Accountability. Workers shall have the right to be recruited for work in the United States under a system that holds the employer accountable for any and all abuses suffered during their recruitment or employment.

6. Freedom of Movement. Workers shall have the right to move freely and change employers while working in the United States.

7. Freedom of Association and Collective Bargaining. Workers shall have the right to form and join unions and to bargain and advocate collectively to promote their rights and interests.

8. Access to Justice. Workers shall have the right to access justice for abuses suffered under U.S. work visa programs.

Endnotes

1 The data used in this report were requested, collated, and analyzed by Cate Bowman and generously shared with the ILRWG. See Catherine Bowman, *Flexible Workers, Fissured Workplaces: Cultural Exchange For Hire In An Era of Precarious Labor*, Ph.D. dissertation (2019), University of Colorado.

2 For a breakdown of the number of J-1 SWT workers employed in each state, see Appendix A.

3 We define "lead companies" or "lead brands" as the main company or brand that other corporate entities may be affiliated with. For example, we consider McDonald's to be the lead company for the many individual McDonald's franchisees across numerous zip codes in the United States. Therefore, we count McDonald's as only one company in the data for our count of 16,000, rather than counting each individual McDonald's location.

4 U.S. Department of State, Exchange Visitor Program, available at https://j1visa.state.gov/about-us/. For more information about the program see Justice in Motion, Visa Pages: U.S. Temporary Foreign Worker Visas; J-1 Visa, https://static1.squarespace.com/static/57d09e5c5016e1b4f21c9bd3/t/590b7f78bf629a657efa465c/1493925754158/VisaPages_J1_2015update.pdf.

5 See e.g., Daniel Costa, *Guestworker Diplomacy*, Economic Policy Institute (July 14, 2011), https://www.epi.org/publication/j_visas_minimal_oversight_despite_significant_implications_for_the_labor_ma/.

6 8 U.S.C. §101(a)(15)(J). The categories of participant eligibility are listed in 22 C.F.R. § 62.4. Note that there are seven separate categories listed in (a) through (g), and there are seven more subcategories listed within (h) (other person of similar description). The word "categories" is used and refers to the fourteen distinct categories and subcategories found in Part 62. While there are fourteen categories, there are thirteen sets of regulations because interns and trainees are grouped together. The thirteen bodies of regulations are found in 22 C.F.R. Part 62, Subpart B.

7 U.S. Department of State, Table XVI(B) Nonimmigrant Visas Issued by Classification (Including Border Crossing Cards) Fiscal Years 2011-2015, available at https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2015AnnualReport/FY15AnnualReport-TableXVIB.pdf.

8 Daniel Costa, *Guestworker Diplomacy*, Economic Policy Institute (July 14, 2011), https://www.epi.org/publication/j_visas_minimal_oversight_despite_significant_implications_for_the_labor_ma/.

9 U.S. Department of State, Exchange Visitor Program, Facts and Figures, https://j1visa.state.gov/basics/facts-and-figures/. For a breakdown of the number of J-1 SWT workers employed in each state, see Appendix A.

10 U.S. Department of State, Exchange Visitor Program, Summer Work Travel Program, available at https://j1visa.state.gov/programs/summer-work-travel

11 22 CFR § 62.32(b).

12 22 CFR § 62.32(c).

13 22 CFR § 62.32(f)(1-2).

14 See e.g., Southern Poverty Law Center, *Culture Shock: The Exploitation of J-1 Cultural Exchange Workers*, 17, (2014), https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/publication/j-1_report_v2_web.pdf

15 Daniel Costa, *Guestworker Diplomacy*, Economic Policy Institute (July 14, 2011), https://www.epi.org/publication/j_visas_minimal_oversight_despite_significant_implications_for_the_labor_ma/.

16 See for example, Jobofer.org, "Reasons Seasonal Employers Hire International Students Include:", http://www.jobofer.org/benefits/.

17 Authors' analysis of fiscal 2015 disclosure data of H-2B labor certifications from the Office of Foreign Labor Certification's Performance Data, available at:https://www.foreignlaborcert.doleta.gov/docs/py2015q4/H-2B_Disclosure_Data_FY15_Q4.xlsx.

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CREATIVE DIRECTOR Russell Estes
SENIOR CREATIVE LEADS Michelle Leland, Scott Phillips, Kristina Turner
DESIGNERS Shannon Anderson, Hillary Andrews, Cierra Brinson, Sunny Paulk, Alex Trott
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