COVID-Related Appointments Abroad: Spring 2021

Dear Colleagues,

With your help, Michigan State University is planning efforts to provide a high- quality educational and scholarly experience for all community members during Spring Semester 2021 (“SS21”), amid the continuing challenges posed by COVID-19. Some of those efforts will extend or modify certain special provisions made for Fall Semester 2020 (“FS20”). We write concerning one such case.

Among the many issues that confronted MSU in FS20 was a cohort of faculty, post-docs, graduate students, and undergraduate employees – some newly hired by, or admitted to, the University – who were unable to come to Michigan in August. A number of units wished to support such individuals financially while they worked or studied abroad. In response, the University sought to screen and process appointments abroad for more than 200 individuals spread across more than sixty countries, accommodating them to the extent possible under law, funder regulations, and internal MSU policies.

A July 27, 2020 e-mail sent from the Offices of the Provost and the Vice President for Research & Innovation stated, “… the appointments to be screened are for FS20 **only**. At this time, similar appointments abroad due to COVID-19 have not been authorized thereafter.” Attention now returns to the issue of SS21 COVID-related[[1]](#footnote-1) appointments abroad, in light of our current circumstances. Relative to July 2020, some things have improved (e.g., visa interview availability[[2]](#footnote-2) in some re-opened U.S. embassies and consulates) and others are worse (e.g., local infection rates in Michigan).

An updated *ad hoc* screening process is being deployed to review unit requests to support overseas appointments of individuals in SS21. Although exceptions may sometimes occur for demonstrated cause, the SS21 screening will implement the following default expectations:

1. Graduate and undergraduate students who are able to reside in the vicinity of the MSU campus during SS21 are **strongly encouraged** to do so. A request for undergraduate employment, graduate study (with or without tuition waivers), TA appointment, or RA appointment to occur abroad in SS21 will require specific justification, and will be approved on an exception basis only for cause.
2. Federal sanctions now in place against the Crimean region, Cuba, Iran, North Korea, and Syria result in a **strong presumption of denial** for study, research, teaching, or other employment requests in those locales, or for their citizens’ appointments anywhere outside of the United States. Because sanctions are imposed differently on different countries[[3]](#footnote-3), the specific facts of each request – including software and other tools to be used remotely -- will impact the permissibility of any possible exceptions. (On a positive note for example, recent Federal decisions have somewhat liberalized constraints on Zoom or similar outreach to Sudan.)
3. In general, individuals who were physically located at MSU in FS20 will **not** be candidates for new COVID-related appointment abroad in SS21, absent a significant and non-discretionary change in circumstances. Similarly, individuals who are newly joining MSU in January of 2021 will **not** be good candidates for appointment abroad in SS21, absent a clear inability to reach campus. Putting aside issues of export controls and trade sanctions, each country of COVID-related appointment outside of the U.S. complicates MSU compliance with a large and nationally diverse set of taxation and employment laws. Therefore, it is the institutional intent to limit total participation in COVID-related appointments abroad, *en route* to elimination by Fall Semester of 2021 of an appointment program created on a purely *ad hoc* basis to assist with pandemic exigencies.

Through two methods, MSU will seek to ensure that those individuals appointed abroad for SS21 avoid difficulties with the export control, trade sanctions, and other regulatory obligations the institution must meet.

**Method One** -- ECTS hopes to conserve time in those units re-appointing individuals for whom appointments abroad were approved in FS20. In such cases, a copy of the screening form previously submitted for FS20 may be resubmitted “as is” to S21appts@msu.edu, provided that the unit does so **only in those cases for which the statement below is totally true** and that the unit transmits the form with an e-mail fully asserting it (for example, by “cut & paste”):

The attached FS20 “appointment abroad” screening form is re-submitted for SS21. I attest that (i) the course and/or research information provided on the form, (ii) the locale of proposed appointment abroad, (iii) the software and remote computer access to be utilized, (iv) the course instructor or research preceptor information, and (v) the most recent university/employer/military service information were correct for FS20 and are believed to remain correct for SS21. I understand that any inaccuracies herein may subject the individual appointed abroad, unit staff, and/or the University to serious sanctions, and that the appointing unit remains responsible for promptly reporting to ECTS all later additions or modifications to the information now being provided.

In those instances where the re-appointment attestation above may appropriately be made, ECTS will strive to respond within two working days after request receipt.

**Method Two** – In many COVID-related re-appointment abroad cases, some information will change between FS20 and SS21, properly triggering a new ECTS review. (For example, TA’s in upper division classes will typically be assisting different courses – possibly using different controlled software – in SS21. Similarly, students may be switching from TA to RA or *vice versa* between FS20 and SS21, changing research projects within their group, or even changing research preceptors. Such changes necessitate new ECTS reviews.)

When screening information changes for either those individuals to be newly appointed abroad “for cause”, or for whom continuation of appointment abroad can be justified, please use the attached form to transmit the new SS21 data. The forms submitted to S21appts@msu.edu will be initially screened in ECTS, in cooperation with the many other administrative units affected by unconventional teaching and research abroad.

As noted in the FS20 screening process, it must be remembered that the Fundamental Research Exclusion (FRE) “safe harbor” from export control – something that all major American universities rely upon for conducting and openly publishing fundamental research (other than certain encryption and those projects restricted by funders) – is **only** available for work undertaken within the United States. Thus, for example, NSF-funded research work on fingerprint identification that could be conducted freely on our campus would be captured by export control regulations if conducted abroad. In the case of teaching, normal catalog courses are exempted from export control, even if occurring abroad. However, certain commercial tools (such as advanced software and other information technology tools) still remain controlled when used within those courses. These research and teaching considerations necessitate the screening of new or modified appointments. Where warranted, the envisioned appointment request screening will result in recommendations or requirements for additional training, to minimize the likelihood of misunderstandings resulting in regulatory violations.

Please note that it is **not** anticipated that MSU will be able to approve every possible desired appointment abroad. Units concerned about specific requests should contact ECTS at (517) 432-4499, where all contacts are routinely logged for follow-up.

Relative to the FS20 process, screening of SS21 appointment abroad requests is complicated by the holiday vacation season. To facilitate timely decisions on screening requests, units are respectfully requested to submit their requests as soon as possible and in any event no later than the close of business on **Monday, December 7, 2020**. ECTS intends to complete and return the reviews of all requests received on or before that date by close of business on Thursday, December 17, 2020, thus permitting unit transmissions to AHR or HR prior to Christmas week.

Please note that diligent appointment abroad screening frequently requires that questions be posed to those involved. Due to holiday travel by individuals to be appointed abroad, their supervisors, academic unit personnel, and personnel in Research & Innovation, the holidays will not be conducive to such diligence. Hence a second, supplemental round of screening will commence on January 11th for appointment abroad requests that were received after December 7th and that remained incomplete on December 17th.

We all continue to confront unfamiliar COVID-related challenges. With your assistance, we will strive to minimize adverse impacts on our students and scholarly colleagues, and all those supporting them faithfully. Thank you for your kind and swift efforts. We appreciate all you have done during a time of unprecedented challenge, and all you continue to do in support of our scholarly mission.

1. “COVID-related” appointments are considered herein – in contrast, for example, to appointments resulting from extramural grants and contracts. [↑](#footnote-ref-1)
2. As of October 28th, student visa interview wait times varied wildly by locale, according to [https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/wait-times.html#](https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/wait-times.html) : e.g., same day in Madrid and Santiago, one day in Berlin, Mexico City, and Tokyo, two days in Nassau and Seoul, three days in Athens, Belgrade, Ho Chi Minh City, and Oslo, ten days in Melbourne, 15 days in Rome, 60 days in Paris, 97 days in Ottawa, and 127 days in Nairobi, but available for emergency cases only in Beijing, Calcutta, Cape Town, Dubai, Dublin, Jakarta, Lagos, London, Moscow, Mumbai, Sao Paulo, Tel Aviv, and Toronto. New Delhi was distinctively listed as “temporarily closed.”

Any of the forgoing sample, point-in-time results may have changed by the time this memo is read, but they reflect significant variability of wait times. [↑](#footnote-ref-2)
3. In FS20, by far the most common request in this category dealt with Iran. Detailed information specific to Iran ***changed on October 29, 2020***; please see [https://home.treasury.gov/system/files/126/iran\_gl\_M.pdfhttps://home.treasury.gov/system/files/126/iran\_gl\_M.pdf](https://home.treasury.gov/system/files/126/iran_gl_M.pdfhttps%3A//home.treasury.gov/system/files/126/iran_gl_M.pdf) as well as <https://home.treasury.gov/system/files/126/iran_glg.pdf> . [↑](#footnote-ref-3)