

EDUCATION

**Memorandum of Understanding
Between the
UNITED STATES OF AMERICA
and MALAYSIA**

Signed at Putrajaya November 27, 2017

with

Appendix



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

MALAYSIA

Education

*Memorandum of understanding signed at
Putrajaya November 27, 2017;
Entered into force November 27, 2017;
With effect from May 3, 2017.
With appendix.*

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE GOVERNMENT OF MALAYSIA

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

ON

THE FULBRIGHT ENGLISH TEACHING ASSISTANT PROGRAM

THE GOVERNMENT OF MALAYSIA, as represented by the Ministry of Education of Malaysia (hereinafter referred to as "the MOE") **AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA**, as represented by the U.S. Embassy in Kuala Lumpur (hereinafter referred to as "the U.S. Embassy") (hereinafter referred to singularly as "the Party" and collectively as "the Parties"),

RECOGNIZING the existing friendly relations between the two countries;

DESIRING to strengthen and further develop co-operation between the two countries in the field of English language education;

CONVINCED of the necessity of a lasting and effective co-operation in the interest of both countries;

RECALLING the Memorandum of Understanding Between the Government of the United States of America and the Government of Malaysia on the Fulbright English Teaching Assistant Program, signed at Kuala Lumpur on August 8, 2012, with effect from May 3, 2011, as amended and extended by exchange of notes dated April 8 and 11, 2014; and

BELIEVING that such co-operation would serve their common interests and contribute to the enhancement of education of the English language and social development of both countries,

HAVE AGREED as follows:

ARTICLE I

OBJECTIVE

The Parties, pursuant to this Memorandum of Understanding (hereinafter referred to as "MOU") and the laws, rules, regulations and national policies in force in each country, agree to strengthen, promote and develop the provision of education and training in the English language while upholding the Malay language, between the two countries on the basis of equality and mutual benefit.

ARTICLE II
AREA OF COOPERATION

Each Party shall, subject to the laws, rules, regulations and national policies in force that govern the subject matter in its respective country, endeavour to take necessary steps to encourage and promote co-operation in the administration of the Fulbright English Teaching Assistant ("ETA") program ("the Program"), whose Terms of Reference are as prescribed in Appendix A, which is an integral part of this MOU.

ARTICLE III
DESIGNATED AUTHORITY

The designated authority responsible for the implementation of this MOU on behalf of the Government of Malaysia shall be the MOE. The designated authority responsible for the implementation of this MOU on behalf of the Government of the United States of America shall be the U.S. Embassy. The Malaysian-American Commission on Educational Exchange (hereinafter referred to as "MACEE"), the binational Fulbright Commission in Malaysia established by the Parties in 1963, shall manage and coordinate the Program in Malaysian national schools together with the MOE, with the assistance and guidance of the U.S. Embassy.

ARTICLE IV
IMPLEMENTATION

The Parties agree that the areas of cooperation under this MOU shall be carried out through the MOE and MACEE in the manner as specified in Appendix A.

ARTICLE V
JOINT WORKING GROUP

1. The Parties shall establish, consistent with the authorities of the binational Board of MACEE, a Malaysia-United States of America Joint Working Group (hereinafter referred to as the "Joint Working Group") to implement this MOU.
2. The Joint Working Group shall consider ways and means to promote the aforesaid objective and ensure the proper co-ordination and implementation of its decisions and/or recommendations.
3. The Joint Working Group shall be co-chaired by the MOE and the U.S. Embassy, with participation from MACEE and other relevant agencies of both countries as appropriate.
4. The Joint Working Group shall meet at least twice a year or as the Parties may otherwise determine to review the implementation of this MOU.
5. The Joint Working Group shall meet at a date convenient to and mutually agreed upon by the Parties.

ARTICLE VI
FINANCIAL ARRANGEMENTS

1. The financial arrangements to cover expenses for undertakings within the framework of this MOU shall be mutually decided in writing by the Parties on an annual basis, subject to the availability of funds.
2. The Government of Malaysia's contribution to the Program undertaken within the framework of this MOU is estimated at six million Malaysian Ringgit (MYR 6,000,000.00) per year, for three (3) years.
3. Notwithstanding paragraphs 1 and 2 above, expenses for organizing the meetings of the Joint Working Group shall be borne by the Party hosting each meeting. The Party sending its representatives for participation in the meetings of the Joint Working Group shall bear their travel and living expenses.

ARTICLE VII
PARTICIPATION OF THIRD PARTY

Either Party may invite the participation of a third party in the joint activities, projects and/or programs being carried out under this MOU upon the agreement of the other Party to the MOU. In carrying out such joint activities, projects and/or program, the Parties shall ensure that the third party shall comply with the provisions of this MOU.

ARTICLE VIII

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. The protection of intellectual property rights shall be enforced in conformity with the respective national laws, rules and regulations of each Party and with international agreements in force between the Parties.
2. The use of the name, logo and/or official emblem of either of the Parties on any publication or final document produced under this MOU is prohibited without the prior written approval of the affected Party.
3. Any intellectual property created
 - (i) jointly by the Parties, shall be jointly owned by the Parties in accordance with terms to be mutually agreed upon; and
 - (ii) solely and separately by one Party, shall be solely owned by the Party concerned.

ARTICLE IX

CONFIDENTIALITY

1. Each Party shall undertake to observe the confidentiality of documents, information and other data received from or supplied to the other Party during the period of implementation of this MOU or any other agreements made pursuant to this MOU, to the extent permissible by law.

2. Both Parties agree that the provisions of this Article shall continue to be binding upon the Parties notwithstanding the termination of this MOU.

ARTICLE X

SUSPENSION

Each Party reserves the right for reasons of national security, national interest, public order or public health to suspend temporarily, either in whole or in part, the implementation of this MOU, which suspension shall take effect immediately after notification has been given to the other Party, in writing, through diplomatic channels.

ARTICLE XI

AMENDMENT

1. Either Party may request in writing an amendment of all or any part of this MOU, including Appendix A.
2. Any amendment agreed to by the Parties shall be reduced to writing and shall form part of this MOU.
3. Such amendment shall enter into force on such date as may be agreed upon by the Parties.
4. Any amendment shall not prejudice the rights and obligations arising from, or based on, this MOU before or up to the date of such amendment.

ARTICLE XII
SETTLEMENT OF DISPUTES

Any difference or dispute between the Parties concerning the interpretation, implementation, and/or application of any of the provisions of this MOU shall be settled amicably through mutual consultation and/or negotiations between the Parties through diplomatic channels, without reference to any third party or international tribunal.

ARTICLE XIII
PROTECTION UNDER OTHER INTERNATIONAL AGREEMENTS
OR TREATIES

This MOU shall not prejudice any rights or obligations of the Parties arising from any other international agreements or treaties.

ARTICLE XIV
ENTRY INTO FORCE, DURATION AND TERMINATION

1. This MOU shall enter into force upon signature with effect from May 3, 2017, and shall remain in force through December 31, 2020.
2. Nothing in this MOU shall be interpreted to affect the implementation of any on-going activities, projects and/or programs which had been agreed upon by the Parties prior to the date on which this MOU enters force, unless the Parties agree otherwise.

3. This MOU may be extended for a further period as may be jointly agreed upon in writing by the Parties.
4. Either Party shall give three (3) months' written notice to the other Party of its intention to terminate this MOU.
5. The termination of this MOU shall not affect the implementation of any on-going activities, projects and/or programs which have been agreed upon by the Parties prior to the date of termination of this MOU, unless the Parties agree otherwise.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed the present MOU.

DONE at PUTRAJAYA, this TWENTY-SEVENTH day of NOVEMBER, 2017, in two (2) original copies, in the English language.

**FOR THE GOVERNMENT OF
MALAYSIA:**

**FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA:**



.....
H.E. Dato' Sri Alias bin Ahmad



.....
Mr. Dean Thompson

**FULBRIGHT ENGLISH TEACHING ASSISTANT PROGRAM
TERMS OF REFERENCE (TOR)**

1. The Government of Malaysia agrees to cooperate with the Government of the United States of America (collectively, the Parties) on the implementation of the Fulbright English Teaching Assistant (ETA) Program (the Program). During the three (3)-year period beginning in January 2018, three hundred (300) ETAs shall be selected and placed in schools. The maximum number of ETAs selected and placed each year shall be one hundred (100).
2. The Malaysian-American Commission on Educational Exchange (MACEE), as the binational Fulbright Commission in Malaysia established by the two governments in 1963, will manage and coordinate the Program in Malaysian national schools together with the Ministry of Education (MOE), with assistance and guidance from the United States (U.S.) Embassy.
3. For the purpose of implementing this Program, a Joint Working Group (JWG) shall be established by the Parties. The JWG shall be co-chaired by the MOE and the U.S. Embassy, with participation from the MACEE Board and other agencies, as appropriate. The JWG shall meet at least twice a year or as the Parties may otherwise determine to review the implementation of this Program.
4. An MOE Program secretariat shall be affiliated with the MOE's School Management Division (SMD).

5. The MOE shall provide MACEE with a list of criteria for the recruitment and selection of ETAs, and MACEE and the U.S. Embassy shall endeavor to provide ETAs accordingly. Final selection of ETAs shall be made by the MACEE Board and the U.S. Embassy in accordance with established Fulbright procedures.
6. MACEE and the U.S. Embassy shall recruit and select all ETAs for this Program. Selection shall be from among recent U.S. university graduates who have applied to the Program through MACEE.
7. MACEE shall provide a list of ETA finalists to the MOE prior to their placement in schools. The MOE's recommendations of ETAs shall be given due consideration by the U.S. Embassy and MACEE before any ETAs are placed in Malaysian schools.
8. The MOE is responsible for the selection of schools and the placement of the ETAs, in consultation with the U.S. Embassy and MACEE.
9. The MOE shall facilitate the issuance of visas for all ETAs with the Immigration Department of the Ministry of Foreign Affairs. The MOE shall be responsible for the payment of visa fees.
10. MACEE and the U.S. Embassy shall jointly conduct a two (2)-week pre-orientation program and security briefing for all ETAs upon arrival in Kuala Lumpur, and will include the MOE in the program to provide the ETAs with the necessary knowledge and information required to work effectively in a Malaysian schools and community.

11. The MOE shall conduct a separate, one (1)-week state orientation before placing the ETAs in schools. During this orientation, ETAs will be provided with the knowledge necessary for them to function effectively in schools. The MOE shall ensure that an additional, specific briefing is carried out for all ETAs and the respective schools on the responsibilities of the ETAs in Malaysian schools.
12. The MOU shall place all ETAs in a Malaysian school no later than the last week of January. The MOE will ensure that district level police are informed of ETA placements in their districts.
13. MACEE shall select a Program coordinator for each state. The Program coordinator is responsible for the welfare and monitoring of ETAs. The Program coordinator will liaise with the State Education Department (SED) and District Education Office, should there be any issues pertaining to ETA responsibilities and performance in schools.
14. The MOE shall appoint mentors to assist ETAs with logistical arrangements and to ensure the effective functioning of ETAs. The MOE shall ensure that the mentors and school principals are briefed on their roles and responsibilities in the administration of the Program.
15. ETAs, each school's Head of English Panel, mentors and school administrators shall jointly develop a plan of activities to be conducted throughout the duration of an ETA's placement. These activities shall include classroom and extra-curricular activities to be

carried out by the ETAs. All activities shall be coordinated by ETAs with the cooperation and assistance of all teachers, mentors and school administrators.

16. ETAs are not teachers. As native English speakers, their purpose is to help facilitate the teaching and learning of the English language inside and outside of the classroom, by interacting with the students, and through various forms of activities and through other subjects. ETAs should make efforts to stimulate the interest and promote the use of the English language through academic, co-academic or extra-curricular activities. In addition, the ETAs serve as cultural ambassadors, to help foster closer 'people to people' ties between the citizens of the United States and Malaysia.

17. ETAs shall not be required or permitted to:

- (i) Teach formal lessons;
- (ii) Replace other teachers or be alone in the classroom with students (without the presence of teachers);
- (iii) Conduct extra classes outside of normal school hours in the afternoon, evening or on weekends without the ETA's prior consent and early notification;
- (iv) Conduct programs during school breaks and Malaysian public holidays without the ETA's prior consent and early notification;
- (v) Prepare exam papers;
- (vi) Grade exam papers or students;
- (vii) Sit on school working committees or groups for administrative purposes or carry out duties normally undertaken by teachers;
- (viii) Pay for lodging or accommodation;

- (ix) Bring outsiders to the school or arrange for outsiders to be in contact with the students without prior permission from the school management and parents; or
- (x) Bring items prohibited by the Malaysian government, the MOE, or the school to the school and in contact with the students.

18. ETAs shall be required to have a minimum of five (5) contact hours daily during school and official extra-curricular activities hours. Prior consent from the ETA shall be obtained for any activities under the Program to be planned and scheduled outside of school and official extra-curricular activities hours, school holidays and Malaysian public holidays.
19. The MOE shall provide guidance to ETAs on general school regulations, social conduct, and cultural norms relevant to the Program.
20. The MOE shall advise the schools on the code of conduct and proper way for the school administration and teaching staff to treat ETAs.
21. MACEE shall advise and help ensure that ETAs abide by the guidelines provided by the MOE on school regulations, and the do's and don'ts of various cultural and religious practices.
22. The MOE shall accord seven (7) days of leave to each ETA throughout his/her ten (10)-month tenure as an ETA, in addition to Malaysian or school holidays. ETAs shall be required to obtain approval from their respective schools and the SED before going on

leave, except in the event of an emergency, in which case approval may be sought while on leave.

23. MACEE shall advise ETAs that they should consult and obtain approval from MACEE, their host school, and the SED prior to leaving the country.
24. Representatives from the MOE and MACEE or the U.S. Embassy shall, from time to time, visit the ETAs at their respective schools to monitor their progress and welfare. MACEE or the U.S. Embassy shall notify the MOE at least three (3) days in advance of such visits, but shall not be required to obtain permission for the visits.
25. The MOE and MACEE shall provide feedback to each other on the progress of ETAs and their respective schools.
26. MACEE shall submit a mid-year and an end-of-year program report to the MOE.
27. The MOE, MACEE, and the U.S. Embassy shall consult one another to resolve any disputes, security concerns, or disciplinary issues with ETAs, host schools, or other entities.
28. MACEE shall use the funding provided by the Government of Malaysia for the following items:
 - (i) A pre-orientation program in Kuala Lumpur for ETAs, jointly conducted by MACEE and the U.S. Embassy;

- (ii) An orientation program in each state in which ETAs are placed, organized by the respective SED;
- (iii) A briefing for all ETAs and the respective schools on the responsibilities of the ETAs in Malaysian schools;
- (iv) Accommodations for ETAs;
- (v) A monthly allowance for each ETA mentor in schools;
- (vi) Settling in expenses; and
- (vii) Transportation between Kuala Lumpur and the schools to which ETAs are assigned.

29. MACEE shall use the funding provided by the Government of the United States of America to pay for the following costs related to the Program:

- (i) Recruitment of ETAs in the United States;
- (ii) Insurance benefits for each ETA; and
- (iii) Round-trip airfare from the United States to Kuala Lumpur for all selected ETAs.

30. MACEE shall channel any additional funding related to teaching and extra-curricular activities for the ETAs through their respective schools.

31. MACEE shall reimburse the MOE, in a manner agreed upon by both Parties, for any ETA who does not complete the ten (10)-month term at his or her school.

32. MACEE shall be responsible for securing suitable accommodations and providing basic amenities for ETAs, either on school premises or nearby, with the assistance of the MOE.
33. Schools are not required to provide transportation to ETAs who do not live on school premises after the first four (4) weeks of their school assignment.
34. Schools are required to provide transportation for any activities or programs organized by the MOE in which the ETAs are involved.