

VI. J-1 VISA/ STATUS – EXCHANGE VISITORS

This is for those who have the intention to engage in an approved program for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting demonstrating special skills, receiving training, or to receive graduate medical education or training. Examples of candidates for the J-1 visa include: (a) students at all academic levels; (b) trainees obtaining on-the-job training with firms, institutions, and agencies; (c) teachers of primary, secondary, and specialized schools; (d) professors coming to teach or do research at institutions of higher learning; (e) research scholars; (f) professional trainees in the medical and allied fields (a/k/a alien physicians); (g) international visitors coming for the purpose of travel, observation, consultation, research, training, sharing, or demonstrating specialized knowledge or skills, or participating in organized people-to-people programs; (h) au pairs; and (i) summer camp counselors.

It is important to note that there are two types of J-1 visas: (1) J-1 visas that do not have a restriction known as 'Home Residency Requirement' (HRR); and (2) J-1 visas that have the HRR restriction. The odd aspect of the J-1 visa is that the sponsor must obtain from the Department of State designation as an Exchange-Visitor Program and be assigned a program number. The exchange visitor must also maintain a foreign residence and must not have an intention of abandoning such residence. In addition, you-as an applicant must prove that you have plans to remain the United States for a temporary, specific, limited period; evidence of funds to cover expenses while you're in the U.S, evidence of compelling social and economic ties abroad; and other binding ties that will insure your return abroad after your visit.

Visa applicants should apply at the U.S. Embassy or Consulate, generally in their country of permanent residence. As part of the visa application process, an interview at the U.S. Embassy or Consulate is required for visa applicants from age 14 through 79, with few exceptions. Persons age 13 and younger, and age 80 and older, generally do not require an interview, unless requested by the embassy or consulate. The waiting time for an interview appointment for applicants can vary, so early visa application is strongly encouraged. Visa wait times for interview appointments and visa processing time information for each U.S. Embassy or Consulate worldwide is available on our website at Visa Wait Times, and on most embassy websites. If you are authorized by your sponsor to be accompanied by your spouse (husband or wife) and children, they will also be given a Form DS-2019 and they can apply at the same time. During the visa application process, usually at the interview, an ink-free, digital fingerprint scan will be quickly taken. Some visa applications require further administrative processing which takes additional time after the visa applicant's interview by a Consular Officer.

Note: J-1 visa is generally issued within 30 days from the day the application is submitted. Depending upon the backlog at the American Consulate where you have submitted the application it may take up to 60 days.

IF YOU GET THE VISA, you can enter the United States pursuant to J-1 status. The spouse and children, below 21 years of age, regardless of nationality and not married, are eligible to acquire a J-2 Visa. They may also accompany the J-1 Exchange visitor and remain in the United States. They are also allowed to get employment but their income may not be used to support you.

Your status in the United States is “Duration of Stay” (“D/S”) meaning so long as the program is ongoing you are allowed to remain in the United States. Students (secondary school students) may be granted D/S for a period of one year; Teachers (primary and secondary school teachers) may be granted D/S for a period of three years; Short Term Scholars may be granted D/S for a period of six months; Foreign Medical Graduates (foreign doctors) may be granted D/S for the length of their program for up to seven years; Trainees and Interns may be granted D/S for a period of twelve to eighteen months; Specialists may be granted D/S for a period of one year; Camp Counselors may be granted D/S for a period of four months; and Government Visitors may be granted D/S for a period of eighteen months. **Note:** The duration of stay for each category may be extended as long as an adequate justification is given.

The J-1 visa certainly has its benefits. With this status you can: (a) enter the U.S. and participate in exchange visitor program approved by the U.S. Department of State; (b) travel in and out of the U.S. or remain in the U.S. continuously till the completion of your exchange visitor program; (c) apply for dependent visas for your spouse as well as unmarried dependent children under age 21; (d) work legally in the U.S. if work is part of your approved program or if you receive permission to work from the official program sponsor; and (e) apply for and receive work permits for accompanying relatives.

On the other hand, the J-1 visa has its drawbacks as well. You restrict yourself to studying, working or otherwise participating in the special exchange program for which your visa has been approved. Another limitation is that you must be accepted as a participant in the program approved by the DOS before you apply for J-1 visa. Perhaps the biggest drawback is that fact that you may be required to return to your home country for at least two years before you are permitted to get a Green Card or change to another nonimmigrant visa status. This is true if you are an exchange visitor participating in a certain type of program.

UNLESS...you can obtain a waiver of the two year home residency requirement! Here are four types of waivers:

NO-INTEREST WAIVER—granted based on a statement to the Department of State from the J-1 Visa holder’s Government of Nationality or last foreign residence that does not object to a waiver of the foreign residence requirement applicable to the exchange visitor. To those physicians who have received medical education or training under the J-1 program are not qualified for this waiver. While to those who are non-physicians, this waiver is most widely used. But, if U.S Government fund was received, then this waiver will be denied.

INTERESTED GOVERNMENT AGENCY WAIVER—this is granted upon the request of an Interested Government Agency (IGA). IGA waiver must be submitted to the Department of State by a U.S Government Agency saying that it believed that the exchange visitor’s departure from the U.S would be detrimental to an activity of official interest to the agency.

HARDSHIP TO FAMILY MEMBER(S) WAIVER – this applies to a U.S citizen, spouse, or child of an exchange visitor. Granting you (-exchange visitor) can demonstrate that our departure from the U.S would cause extreme hardship to your U.S citizen or lawful permanent resident spouse or child, and then you may apply for a waiver.

PERSECUTION HARDSHIP—If you believe that you will be persecuted upon the return to your home country due to race, religion, or political opinion, then you may apply for a waiver.

To find out more about the procedural steps involved and an estimate of fees, call or email us today for your free in-depth consultation!