



**University at Buffalo**  
*The State University of New York*

**Office of International Education**  
International Student and Scholar Services

## **TWO-YEAR HOME RESIDENCE REQUIREMENT**

J-1 Exchange Visitors come to the U.S. for a specific objective such as a program of study (J-1 student) or a research project (J-1 scholar). The intent of the Exchange Visitor Program is for the home country to benefit from the J-1 Exchange Visitor's experiences in the U.S. Accordingly, J-1 Exchange Visitors and their accompanying J-2 dependents may be subject to a two-year home residence requirement.

### **Who is subject to the two-year home residence requirement?**

J-1 Exchange Visitors may be subject to the two-year home residence requirement if:

- they received government funding, in whole or in part, directly or indirectly, and for the purpose of exchange, from their home government, the U.S. government or selected international organizations;
- the education, training or skill the J-1 Exchange Visitor is pursuing on the exchange program is on the Exchange Visitors Skills List (a list of areas and disciplines identified by foreign governments as having a short supply of workers in that country) for the J-1 Exchange Visitor's country;
- they participated in graduate medical education or training; or
- they are J-2 dependents of a J-1 Exchange Visitor who is subject to the two-year home residence requirement.

### **What does the two-year home residence requirement mean?**

If a J-1 Exchange Visitor is subject to the two-year home residence requirement, s/he must "reside and be physically present" for a total of two years in either his/her country of nationality or legal permanent residence after the completion of his/her stay in the U.S. as a J-1 Exchange Visitor.

## **What restrictions do I have if I am subject to the two-year home residence requirement?**

Until this requirement is met, the J-1 Exchange Visitor is NOT ELIGIBLE for the following:

- H-1B (temporary worker) visa;
- L (intra company transferee) visa;
- K (fiancé/e) visa;
- Adjustment of Status to permanent residence (green card); or
- a change of status inside the U.S. to any other non-immigrant classification except A (diplomats and dependents) or G (representative to international organizations)

## **How do I know whether or not I am subject to the two-year home residence requirement?**

Evidence of whether or not a J-1 Exchange Visitor is subject to the two-year home residence requirement may be found:

- on the J-1 visa stamp in the J-1 Exchange Visitor's passport. The phrase: "Bearer (is/is not) subject to section 212 (e). Two-year rule (does/does not apply)" should appear; or
- in the section labeled "preliminary endorsement" in the lower left hand corner of the DS-2019 form.

## **How can I waive the two-year home residence requirement?**

J-1 Exchange Visitors who are subject to the two-year home residence requirement may be able to receive a waiver of this requirement. A waiver may be pursued on four grounds:

1. A "statement of no objection" from the J-1 Exchange Visitor's home country. For advice on how to obtain such a statement, J-1 Exchange Visitors should contact their Consulate or Embassy in the U.S. The statement must be transmitted through official channels from the home country government to the U. S. Department of State. The Department of State then makes a recommendation to the USCIS as to whether or not the waiver should be granted. The USCIS makes the final decision whether the waiver should be given.

Note: J-1 foreign medical graduates are not eligible to apply for a waiver of the two-year home residence requirement on the basis of a "no objection statement" from their home country.

2. The interest of a U.S. government agency. If the J-1 Exchange Visitor's participation in a project sponsored by, or of interest to, a U.S. federal government agency is of sufficient importance to that government agency, the agency can apply to the Department of State for a waiver. The Interested Government Agency (IGA) request must be signed by the head of the agency or its designee and submitted directly to the Waiver Review Division. The J-1 Exchange Visitor has the responsibility for obtaining an IGA request from a U.S. federal government agency. The Department of State then makes a recommendation to the USCIS as to whether or not the waiver should be granted. The USCIS grants the final waiver.
3. Fear of persecution. If a J-1 Exchange Visitor can demonstrate that, because of his or her race, religion, political opinion or nationality, s/he would face persecution upon return to the home country, s/he might qualify for a waiver. To apply for such a waiver, the J-1 Exchange Visitor should submit an Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act, directly to the USCIS. Once the USCIS makes a decision, it will forward its decision to the Waiver Review Division. Only if the USCIS makes a finding of persecution will the Waiver Review Division proceed with the waiver case under this basis.
4. Exceptional hardship to a U.S. Citizen or Lawful Permanent Resident spouse or child. If a J-1 Exchange Visitor can document that his/her return to the home country would result in extreme hardship to a U.S. Citizen or Lawful Permanent Resident spouse or child, then s/he may apply for a waiver. Ordinarily, circumstances of extreme hardship, such as medical reasons why your spouse or child cannot leave the U.S. and return to the country with the J-1 Exchange Visitor, are necessary for such a waiver to be granted.

To apply for such a waiver, the J-1 Exchange Visitor should submit an Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act directly to the USCIS. Once the USCIS makes a decision, it will forward it to the Waiver Review Division. Only if the USCIS makes a finding of exceptional hardship will the Waiver Review Division proceed with the waiver case under this basis.  
Note: Mere separation from family is not considered to be sufficient to establish exceptional hardship.

Processing of a waiver of the two-year home residence requirement is a complicated and time-consuming matter. Individuals who are interested in pursuing a waiver should seek the advice of an immigration attorney.

**For detailed application procedures on applying for a waiver of the two-year home residence requirement, please visit:  
[http://www.travel.state.gov/visa/temp/info/info\\_1288.html](http://www.travel.state.gov/visa/temp/info/info_1288.html).**

*03/07*