HOME COUNTRY PRESENCE REQUIREMENT
Information for J-1 Professors & Researchers

What is the two-year home country residence requirement?

It is a requirement of the J exchange visitor program that the exchange visitor reside in his/her home country for at least two years following completion of the J program. This requirement prohibits J exchange visitors from obtaining an H temporary worker visa, an L intra-company transferee visa, or permanent residence in the United States; it also prohibits J exchange visitors from changing their status in the U.S. The two-year home country residence requirement does not prohibit an exchange visitor from returning to the U.S. on an F-1 student visa or a B-1/B-2 tourist/business visa. The two-year home country residence requirement is also often referred to as "the two-year home country physical presence requirement" and the "two-year rule."

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

J exchange visitors and dependents are subject to the two-year home-country residence requirement if any of the following apply:

- Participation in a J exchange visitor program in the U.S. was financed in whole or in part by an agency of the U.S. government or by the exchange visitor's home country government, or an international organization.
- The education, training or skill the exchange visitor is pursuing appears on the Exchange Visitor Skills List for the exchange visitor’s country. Certain countries have established, in conjunction with the U.S. Department of State, a list of specialized knowledge or skills needed by the home country. This list is known as the "Exchange Visitor Skills List." There are three versions of the list – 1984, 1997, and 2009. Exchange visitors determine which list to use based on the date they acquired J-1 status. The lists can be reviewed by accessing the U.S. Department of State website: http://travel.state.gov/visa/temp/types/types_4514.html.
- Acquiring J-1 status for the purpose of receiving graduate medical education or training (not applicable to UMB sponsored Exchange Visitors).
How can I tell if I am subject to the two-year home country residence requirement?

If any of the above circumstances apply, you are subject to the two-year home country residence requirement. The following notations on your documents may help confirm that you are subject to the requirement:

- The U.S. Consulate or Embassy official who issues the J-1 visa may put a notation similar to "section 212 (e) does apply" on the visa stamp in your passport and/or on the lower left-hand side of your DS-2019.
- The USCIS official at the port of entry may also write “section 212 (e) does apply” on the back of your I-94 card.

If these notations are not in your passport or on your DS-2019, and the above conditions apply, you may still be subject to the two-year home country residence requirement. However, if you think that your documents indicate that you are subject in error, you should request an "advisory opinion" from the U.S. Department of State.

How do I request an “Advisory Opinion?”

If you are not sure if you are subject to the two-year home country residence requirement, you may request a formal advisory opinion from the U.S. Department of State. When submitting a request for an advisory opinion, please follow instructions at http://www.travel.state.gov/visa/temp/info/info_1288.html.

What are grounds to request a waiver of the two-year home country residence requirement?

Exchange visitors who are subject to the two-year home-country residence requirement may apply for a waiver under any of the following grounds, as provided by U.S. immigration law:

1. “No Objection” statement from the home government

The exchange visitor’s government must state that it has no objection to the exchange visitor not returning to the home country to satisfy the two-year home-country residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended. Each embassy has its own request process; normally the exchange visitor needs to contact the Education Attaché or Education Department of the embassy. Foreign embassies in the U.S. can be located at www.embassy.org.

2. Request by an interested U.S. government agency

If an exchange visitor is working on a project for or of interest to a U.S. Federal Government agency, and that agency has determined that the visitor’s continued stay in the U.S. is vital to one of its programs, a waiver may be granted as it is in the U.S. public interest and vital to the agency’s program.
3. Persecution

The exchange visitor must believe that he/she will be persecuted upon return to his/her home country due to race, religion or political opinion.

4. Exceptional hardship to a U.S. citizen (or permanent resident) spouse or child of an exchange visitor

The exchange visitor must demonstrate that his/her departure from the U.S. would cause extreme hardship to his/her U.S. citizen or lawful permanent resident spouse or child. (Please note that mere separation from family is not considered to be sufficient to establish exceptional hardship.)

5. Request by a designated State Department of Health, or its equivalent

The law permits only medical doctors who received their J-1 status to pursue graduate medical education or training to apply for a waiver on this basis.

Procedures for Waiver Applications

There are three steps in a waiver review application regardless of the basis of the waiver. Detailed instructions are available on the U.S. Department of State web site at http://www.travel.state.gov/visa/temp/info/info_1288.html.

Step 1: To apply for a recommendation for a waiver of the two-year home residence requirement under any of the five applicable grounds, applicants must complete and send online Form DS-3035, two self-addressed, stamped, legal-size envelopes (S.A.S.E) and a cashier’s check or money order for $215 per application, payable to the U.S. Department of State. These documents should be sent to:

**Via Postal Service**
US Department of State
Waiver Review Division
P. O. Box 952137
St. Louis, MO 63195-2137

**Via Courier Service**
US Department of State
Waiver Review Division
(Box 952137)
1005 Convention Plaza
St. Louis, MO 63101-1200

Please Note:

- Only applications using the online form DS-3035 will be accepted. The online waiver form can be found and completed at https://j1visawaiverrecommendation.state.gov.
- Write on the cashier’s check or money order the applicant’s full name, date of birth and Social Security Number, if any.
- Remittances must be drawn on a bank or other institution located in the U.S. and made payable in U.S. currency to the U.S. Department of State.
- If the applicant resides outside of the United States at the time of application, remittance may be made by bank international money order or foreign draft drawn on an institution in the U.S. and made payable to the U.S. Department of State in U.S. currency.
Do NOT fax or mail copies of your application to the Waiver Review Division. The lock box in St. Louis will forward your application to the Waiver Review Division. If you fax or mail copies to the Waiver Review Division, it will NOT be processed.

**Step 2:** It is your responsibility to submit all requested documents and ensure that required documents are sent on your behalf by third parties. The Waiver Review Division will NOT follow up on documents that have not been received. Rather, it will be your responsibility to ensure that your file is complete. Once you have your waiver case number, you should check on the status of your application by visiting the J Visa Waiver Status Check website. If you notice an error regarding your waiver case, you should contact Public Inquiries at (202) 663-1225.

Some documents will be submitted directly to the Waiver Review Division by the responsible third party. However, you, the waiver applicant, must initiate the process by requesting such documents directly from the responsible third party or by applying directly with these other agencies. And, if the third party agrees, your other required documents, such as your DS-2019, may be forwarded to the Waiver Review Division through the third party.

**Step 3:** At the conclusion of the review process, the Waiver Review Division will forward its recommendation directly to the U.S. Citizenship and Immigration Services (USCIS) under the Department of Homeland Security, and you will receive a copy of that recommendation at the address listed on your application. USCIS has the responsibility for making the final determination on your waiver request. USCIS will notify you directly whether your waiver application is denied or approved.

Once you receive a waiver of the two year home-country residence requirement, it is not advisable to travel out of the U.S. and re-enter on a J visa because you could become subject to the residence requirement again. Also be aware that the J program sponsor cannot process an extension of stay or transfer for you as an Exchange Visitor once you have received the waiver.