



## **J-1 Visa Exchange Visitor**

This summary is to provide information regarding a waiver of the foreign residency requirement for J-1 exchange visitors who wish to change their status to another nonimmigrant category or to file an immigrant petition.

The J-1 Nonimmigrant visa category was established to allow certain foreign students, scholars, experts, medical interns and residents, international visitors, and industrial and business trainees to enter the United States as “exchange visitors” in U.S. government-approved Exchange-Visitor Programs for the purpose of gaining experience, studying, or doing research in their respective fields. Since the policy behind the foreign exchange visitors visa category is not to provide a vehicle for immigration to the United States but instead to promote the exchange of knowledge and skills and promote good will between the U.S. and foreign governments, in certain instances a two-year foreign residency requirement is imposed on some categories of exchange visitors once their U.S. stay is completed. For example, if the exchange visitor’s skills are determined to be in short supply in his home country or if he has received funding for his program, either from his home government or from the U.S. government, or if he has come to the U.S. to receive graduate medical training, the exchange visitor will be subject to the foreign residency requirement. Any J-1 exchange visitor subject to the foreign residence requirement is ineligible for permanent residence or approval for a visa in the H or L category until he spends two years - after completion of U.S. J-1 program - in his home country or country of last residence.

If an exchange visitor is subject to the foreign residence requirement, **a waiver of the requirement may be granted under one of the following four conditions**

1. A **“no objection” letter** is issued by the alien’s government to the Waiver Review Branch of the Department of State stating that the foreign government has no objection to the alien remaining in the United States.
2. The exchange visitor’s compliance with the foreign residence requirement would result in **exceptional hardship** to this U.S. citizen or permanent resident spouse or child.
3. The exchange visitor would be subject to **persecution** upon returning home.

4. An interested U.S. government agency (**IGA**) **seeks a waiver** on behalf of the exchange alien.

If a J-1 exchange visitor cannot qualify for a waiver of the foreign residence requirement, he will not be approved for permanent residency **nor** will he be approved for an H-1B visa. The only visa categories which do not require a waiver of foreign residency for J-1 visitors are A, G, and O. The A visa category is reserved for diplomatic employees and their households. G non-immigrants are employees of international organizations, such as the U.N. and the International Monetary Fund. The O category is reserved for extraordinary ability aliens in the sciences, education, business, and athletics. A J-1 exchange visitor may change his nonimmigrant status to the O category without first obtaining a waiver of the 2-year home country physical presence requirement if it can be demonstrated that he has risen to the top of his field such that he meets the INS regulatory definition of an extraordinary alien.