

## Two-Year Foreign Residency Requirement and Waiver (INA 212e)

- Overview
- Applying for a Waiver
- No Objection Waiver
- Interested U.S. Government Agency (IGA) Waiver
- Fear of Persecution Waiver
- Exceptional Hardship Waiver

### Overview

Some J-1 exchange visitors are subject to the U.S. Department of State [Two-Year Foreign Residence Requirement INA 212\(e\)](#) that requires them to return to their home country for two years at the end of their J-1 program. If you belong to one of the following categories, you are most likely subject to this requirement at the end of your J-1 program:

- Medical doctor sponsored by Educational Commission for Foreign Medical Graduates (ECFMG)
- You come from a country on the [U.S. Department of State “skills list”](#)
- You received funding from your home government or from the U.S. government through agencies, such as Fulbright

The Two-Year Foreign Residence Requirement will not prevent you from reentering the U.S. with an F-1 student, B-1/B-2 (tourist) or J-1 student visa (or some other categories) in the future, but it will prevent you from getting H-1B non-immigrant employment or Permanent Residence status unless the 2 year requirement is either fulfilled or waived.

### Applying for a Waiver

There are four categories in which a waiver of the Two-Year Foreign Residence Requirement may be granted. This information is taken from the [U.S. Department of State](#).

- No objection waiver
- Interested U.S. government agency (IGA) waiver
- Fear of persecution waiver
- Exceptional hardship waiver

### *Tips for Applying for a Waiver*

- The U.S. Department of State web site is updated regularly, so we recommend that you check it before submitting your waiver application.
- It is **very important** to follow all the instructions for the waiver application on that web site and mail documents in a timely manner.
- Make copies of all documents that you send for your records.
- Mail your documents using a method that will provide you with a record of the mailing, such as certified mail, express mail, or overnight mail.

- Make sure the address that you list on the form is a valid address. Waiver Division mail may not be forwarded.
- An extension of the J-1 program may continue to be obtained while a waiver request is pending as long as you are within the maximum period of duration for your J-1 program category. **If and when the Waiver Review Division has made a favorable recommendation to the waiver request, no further extension will be processed, though you may complete the current J-1 program period.** For this reason, you should time your application after your program has been extended to the maximum time available and while there is still plenty of time remaining in the program in case of delays in the waiver procedures.

### **No Objection Waiver**

1. Complete a [Form DS-3035 J-1 Visa Waiver Recommendation Application](#) online or send it to the address specified on the U.S. Department of State web page. The preferred method for completing the DS-3035 is to submit it online, in which a case number is generated and assigned immediately. If you cannot complete the DS-3035 online, download the application, fill it in by hand and submit it. Applying for a waiver this way will take longer.
2. Attach any documents you are instructed to enclose, such as two self-addressed, stamped, legal-size envelopes, copies of all previous Forms DS-2019, and a cashier's check or money order for the application fee payable to the U.S. Department of State.
3. After you receive your case number, write the full case number on any document you submit as well as on the outside envelope of all future correspondence with the waiver division office. If you do not write the case number on all correspondence and on the outside of the envelope, the documents you submit will be returned to you.
4. After you have received your case number, contact the embassy of your home country in Washington, D.C., and ask that a No Objection Waiver statement from your government be submitted directly by the embassy to the U.S. Department of State Waiver Review Division. Be sure to request that the embassy write your full case number on the "No Objection" statement and also on the outside of the envelope to be sent to the Waiver Review Division.
5. Mail all the documents requested on the notice of your case number. You can monitor the status of your case by calling the recorded message line at: 202.663.1600 or 202.663.1225 or on the [U.S. Department of State J-Waiver Division](#) web site.
6. At the conclusion of the review process, the Waiver Review Division will forward its recommendation to give you a waiver of 212(e) directly to the U.S. Citizenship and Immigration Services (USCIS) bureau, and you will receive a copy of that recommendation at the address listed on your data sheet. The U-M International Center will also receive a copy of this notice. If your application is denied, you will be notified directly.

### **Interested U.S. Government Agency (IGA) Waiver**

If you are working on a project for, or are of interest to, a U.S. Federal Government Agency and that agency has determined that your continued stay in the U.S. is vital to one of its programs or

if your continued stay in the U.S. is in the public interest, a waiver may be granted. Interested Government Agency waivers are only granted in the interest of the agency involved, not in the interest of the exchange visitor.

Some agencies require that you first try to obtain a No Objection Waiver and only if this method fails can you proceed with an IGA-based application. If you are not employed or funded directly by a U.S. government agency, another federal agency may agree to serve as an IGA. Alien physicians are not eligible for a No Objection Waiver. However, they might qualify for IGA waiver under one of the following options:

- Work at a medically under-served area
- Health related research (“bench” lab research as opposed to clinical research)
- Employment with a government sponsor

### *Applying for an IGA Waiver*

An IGA Waiver application is begun in the same way as all waiver cases; that is, the exchange visitor completes [Form DS-3035 J-1 Visa Waiver Recommendation Application](#) (see [instructions above](#)). Then the case is followed up on directly by the interested government agency according to that agency's procedures.

Most government agencies have an office that handles requests for waivers. Requests must come from the institution, not the exchange visitor. In all cases, contact the agency, through their program liaison or the legal office of the agency, for current forms, instructions, and criteria for waiver applications. Generally, there will be an application form plus documentation that the exchange visitor is employed in a program of high priority and significance; that he or she is needed as an integral part of the program; and that he or she possesses outstanding qualifications, training, and experience.

If the government agency decides to support the request for a waiver, it will forward its recommendation and all other materials that it has collected to the U.S. Department of State directly. Exchange visitors must make sure that they provide their waiver case number to the agency, and ensure that the case number is placed on all documents submitted to the U.S. Department of State by the agency.

A list of U.S. government agencies that can support an IGA waiver and the appropriate contact person in the agency is located on the [U.S. Department of State](#) web site.

Federal agencies not listed are not excluded from recommending a waiver, but they have not provided contact information to the U.S. Department of State.

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) bureau and you will receive a copy of that recommendation at the address listed on your DS-3035. If your application is denied, you will be notified directly. USCIS sends its final decision to you and copies it to your program sponsor.

### Fear of Persecution Waiver

If the exchange visitor believes that he or she will be persecuted upon return to the home country due to race, religion, or political opinion, he or she can apply for a waiver.

### Exceptional Hardship Waiver

This applies to a U.S. citizen (or permanent resident) spouse or child of an exchange visitor. If the exchange visitor can demonstrate that his or her departure from the United States would cause extreme hardship to his or her United States citizen or lawful permanent resident spouse or child, he or she may apply for a waiver. (Please note that separation from family is not considered to be sufficient enough to establish exceptional hardship.)