

Two-Year Home Residency Requirement – 212(e)

Certain J-1 Exchange Visitors are subject to a two-year home country physical presence requirement. Visitors subject to this rule must return to their country of last legal residence for an aggregate of two years after completing their J program or obtain a waiver of this requirement before being eligible for the H-1B (temporary employment), L-1 (intracompany transfer) or Permanent Residence (Green Card) categories.

Please note that this requirement does not prohibit any J-1 scholar and J-2 dependent from returning to the U.S. in any other immigration status. For example, if the visitor wishes to return as a tourist or student within the two-year period and meets the requirements for those entries, the two-year physical presence requirement does not prohibit this.

J-1 visitors and their J-2 dependents (legal spouse and children under age 21) who meet at least one of the criteria listed below are subject to this rule:

- **Home Government Funding.** J-1 visitors who receive funding directly from their home country's government are subject to the 212(e) requirement. Regional government funding does not apply.
 - **U.S. Government Funding.** J-1 visitors who receive funding directly from the U.S. government are "subject" to 212(e). Funding received as salary from University of California grants to the department are not considered government funding for this purpose. However, there are some exceptions which include grants that are specifically targeted for international exchange. Fulbright funding is U.S. government funding.
 - **Funding from an International Organization or Bi-National Commission.** J-1 visitors who receive funding from International Organizations or Bi-National Commissions (organizations that receive their funding from government sources), such as United Nations, NATO, or the European Community.
- The Exchange Visitor Skills List.** J-1 visitors whose area of specialization has been identified as being in short supply by their government of legal permanent residence are considered "subject." Check <https://travel.state.gov/content/travel/en/us-visas/study/exchange/waiver-of-the-exchange-visitor/exchange-visitor-skills-list.html>.

Are J-2 dependents subject?

If you are a dependent of a J-1 visitor who is subject to the 212(e) requirement, you are also subject to this requirement. Please note that J-2 dependents must rely on the J-1 to apply for a waiver of the 212(e) requirement. J-2s may not apply for the waiver separately from the J-1.

Waiver

Do not apply for a waiver of the two-year home country physical presence requirement without first discussing the timing of the request with an International Scholar Adviser: once a "No Objection" recommendation is received from the Department of State, no further extension or transfer of the J-1 program is possible. The Department of State has detailed instructions for application of the waiver of 212(e) at <http://travel.state.gov/content/visas/en/study-exchange/student/residency-waiver.html>.

Advisory Opinion

If you believe that you were marked for the 212 (e) – Two-Year Home Residency requirement in error, please make sure to contact the MSRI international advisor at int-advisor@msri.org before requesting an advisory opinion (<https://travel.state.gov/content/visas/en/general/advisory-opinions.html>).