

24-Month Bar for J-1 Visitors

On January 11, 2007, the U.S. Department of State (DOS) published a final rule to implement key changes to the Exchange Visitor regulations affecting the J Professor and Research Scholar categories. The effective date of the rule is retroactive to November 18, 2006. The major changes to the rule are as follows:

- The maximum period of participation for J Professors and Research Scholars has been increased from three years to five years. The five-year period is not an aggregate of five years. It is a continuous five-year period given to a participant on a “use or lose” basis.
- A new 24-month bar on repeat participation in the J Professor or Research Scholar categories will apply to those who complete their program participation in those categories.
- This rule applies to any J Professor and Research Scholar who completes their J program on or after November 18, 2006. The J-1 category appears in section 4 of the DS-2019.

Understanding the 24-Month Bar

Any individual who participates in an Exchange Visitor program in the Professor or Research Scholar categories on or after 11/18/06 is subject to a 24-month bar on “repeat participation” in those categories. Scholars subject to the bar may not return to the U.S. as a J-1 scholar in the Professor or Research Scholar categories for the 24-month period.

The 24-month bar will be in effect regardless of whether status in the program is a few months in duration or the full five years allowed. Whenever an exchange program ends and the SEVIS record becomes “inactive”, the five-year window is “closed” and the individual must wait 24 months before beginning a new program as a J Professor or Research Scholars. To take advantage of the full five years of the J Research Scholar category, a scholar would need to have an appointment of five continuous years to keep his/her SEVIS record active. Unused time may not be saved for use later.

For example, a J Professor who comes for a single academic year, or a Research Scholar who comes for four months and then goes home without having his/her SEVIS record kept open and active in his/her absence, would not be able to access the remainder of the five-year period of eligibility, would be subject to the 24-month bar, and would not be eligible to return to the United States as a J-1 Professor or Research Scholar at any institution until 24 months (two years) after the last program ended.

Am I Subject to the 24-Month Bar?

Any J exchange visitor in the Research Scholar or Professor categories (and their J-2 dependents) whose J-1 program ends on or after November 18, 2006, is subject to the 24-month bar. The J-1 program end date can be found in section 3 of your DS-2019. The J-1 category can be found in section 4.

Exchange visitors in the Short-Term Scholar, Specialist or Student categories are NOT subject to the 24-month bar. The J category can be found in section 4 of your DS-2019.

Your Future Option

If you are subject to the 24-month bar, you will not be able return to the U.S. as a J-1 scholar in the Research Scholar or Professor categories for a two-year period. However, you may be able to return in a different J-1 category or with a different type of visa.

Two-Year Home Residency Requirement

The two-year home residency requirement is different and separate from the 24-month bar. Visitors in any J category may be subject to the two-year home residency requirement; further information on the two-year home residency requirement is on the reverse side of this form.

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/visas/en/study-exchange/exchange/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>).