



WAIVERS OF INA 212(e) – Frequently Asked Questions

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Types of J Waivers

Q. What are the bases upon which I can obtain a waiver of the two-year residence requirement?

A. There are five statutory bases upon which you can apply for a waiver of the two-year foreign residence requirement:

1. a no objection statement from your home government,
2. a request from an interested U.S. Government agency on your behalf,
3. a claim that you will be persecuted if you return to your country of residence,
4. a claim of exceptional hardship to a U.S. citizen or permanent resident spouse or child if you are required to return to your home country, and
5. a request from a state public health department, or its equivalent, on your behalf (only applies to foreign medical graduates who obtained J-1 status for graduate medical training or education).

No Objection Statements

Q. How do I request a "no objection" statement and where do I send it?

A. You should contact the consular section of your embassy in Washington, D.C., and request a "no objection" statement to be forwarded to the Department of State on your behalf. The Embassy must forward the "no objection" statement directly to the Waiver Review Division at the Department of State.

Q. When in the application process should I request a "no objection" statement?

A. Once you have your case number.

Q. What if I cannot get a "no objection" statement from my home country?

A. You may apply for a waiver in any of the remaining statutory bases that applies to your situation. If none of the waiver bases applies to you, you must return home to fulfill the two-year foreign residence requirement.

Q. Can any J-1 exchange visitor apply for a waiver based upon "no objection" from the home country?

A. No. Foreign medical graduates sponsored by the Educational Commission for Foreign Medical Graduates (ECFMG) to do their clinical training cannot apply for a waiver based on a "no objection" statement.

Q. Why are foreign medical graduates ineligible to apply for a waiver based on a "no objection" statement from their government?

A. The law prohibits it.

Q. How can I be sure that you have received the "no objection" statement?

A. Check on-line the status of your case using your case number. If a no objection statement or other required documents have been received it will be indicated on the system. If the system indicates not yet received, you need to check with your embassy to make sure it sent the statement and allow for appropriate amount of time for mail service. Do not contact the Waiver Review Division directly to check on whether a document has been received, please rely on the status check system available on this website. If there has been an error or you want to clarify a situation regarding your case, please contact the Public Inquiries Division, 202-663-1225.

Q. My "no objection" statement application was denied. Can I ask for reconsideration?

A. No. Waiver applications are exhaustively considered, and it is the policy of the Waiver Review Division not to reconsider "no objection" statement applications once a final determination has been made. You may, however, reapply using another statutory basis for waiver should another one applies to your situation.

Interested U.S. Government Agencies

Q. What is required for a waiver based on an Interested U.S. Government agency (IGA) application?

A letter from a U.S. Federal Government agency, signed by the head of that agency or a designated official, explaining why granting such a waiver is in the public interest of the U.S. and why it would be detrimental to the agency if the exchange visitor returns home to fulfill the two-year requirement. The IGA request letter is sent directly by the agency to the Waiver Review Division. The applicant also needs to apply and submit a completed Online Form DS-3035 with the required fee.

Q. Which U.S. Government agencies may apply for waivers on behalf of exchange visitors? Who are the contact persons at these Interested Government Agencies?

A. Please refer to the list of [designated points of contact for IGA's](#).

Q. If I am an exchange visitor physician and I plan to provide medical service in an underserved area in the U.S. on behalf of an interested US Government Agency, what must be presented to obtain a waiver based on an interested U.S. Government agency application for a physician? This is different waiver basis than the Conrad program, which allows individual states to nominate up to 30 foreign medical graduate J-1 physicians for a waiver.

A. The applicant is responsible for the following:

- Completing DS-3035 Online Form, available on the J-1 Visa Waiver website
- Paying the processing fee - cashier's check or money order for \$215

The Interested U.S. Government Agency is responsible for gathering and sending directly to the Waiver Review Division the following documents in the application package:

- Copies of all DS-2019 /IAP-66 forms issued to the EV
- Curriculum vitae
- **Physician statement**-A statement signed by the physician that should read as follows:
"I, _____(name of exchange visitor) hereby declare and certify, under penalty of the

provisions of 18USC.1101, that: (1) I have sought or obtained the cooperation of _____ (enter name of U.S. Government agency which will submit/is submitting an IGA request on behalf of the exchange visitor to obtain a waiver of the two-year home residence requirement); and (2) I do not now have pending nor will I submit another request to any U.S. Government department or agency or its equivalent, to act on my behalf in any matter relating to a waiver of my two-year home residence requirement." **Statement must be signed and dated.**

- Form G-28 or letter from a law office if an attorney represents the applicant.
- Two self-addressed, stamped, legal-size envelopes.
- Letter of request from head of the agency, or designated official stating why it is in the public interest that the exchange visitor be granted a waiver of section 212(e) of the INA
- Signed contract for no less than three years and 40 hours a week between physician and facility.
- Evidence that the clinic/facility is located in a U.S. Department of Health and Human Services designated Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA).
- **Facility statement** - A statement signed by the head of the facility at which the foreign medical graduate will be employed stating the facility is located in a designated HPSA or MUA area and provides medical care to both Medicaid and Medicare eligible patients, and indigent uninsured patients. The statement should also include the Federal Information Processing Standards county code and census tract or block numbering area number (assigned by the Bureau of Census) or the 9-digit zip code of the area where the facility is located.
- Evidence that unsuccessful efforts were made to recruit an American physician for the position (medical journal advertisements; labor certification or language in cover letter stating efforts to recruit an American physician have been unsuccessful).

Regarding the Department of Veterans Affairs requests on behalf of J-1 physicians to serve in VA hospitals:

1. VA hospitals do not have to be in an underserved area
2. VA applications must include a signed memorandum of agreement between physician and a hospital in lieu of three-year contract.

Q. Which U.S. Government agencies may apply for the waiver on behalf of foreign medical graduates to practice medicine?

A. Appalachian and Delta Regional Commissions, Department of Health and Human Services, Department of Veterans Affairs and Department of Interior for Indian Reservations. J-1 foreign medical graduates may also apply through an individual State's department of health Conrad program.

Persecution

Q. How do I apply for a waiver based on persecution?

A. Please note you will need to apply to both USCIS and the Department of State. Apply directly to the USCIS on [Form I-612](#) for a finding of probable persecution. You must also complete Online Form DS-3035, available on the J-1 Waiver webpage, and pay the \$215 Department of State processing fee.

Q. When do I submit my DS-3035 and processing fee to the Department of State, Waiver Review Division?

A. You may submit the Online Form DS-3035 application and processing fee prior to submitting I-612 to USCIS or after USCIS has acted favorably on your I-612. However, the Waiver Review Division cannot act on your case until you submit your completed DS-3035 Online Form and pay the \$215 processing fee.

Q. Do I need to send anything in addition if USCIS makes a determination of probable persecution, on form I-613, and forwards it directly to the Waiver Review Division?

A. No, but if other documents are needed, the Waiver Review Division will contact you directly.

Q. Can I apply for a waiver based on my fear of persecution and exceptional hardship simultaneously?

A. No. Persecution claims should not be intertwined with claims of exceptional hardship.

Q. How can I check on the status of my persecution application?

A. You can check the status of your persecution application on-line using your case number on this website, or if think there's been an error with your application, you can check with the Public Inquiries Division 202 663-1225. Your concerns regarding processing of I-612 application for a finding of exceptional hardship or persecution should be directed to the Citizenship and Immigration Services 1-800-375-5283. The Waiver Review Division can only take action on your case when all the required documents have been received (including CIS's finding of hardship on form I-613), and your case file is complete for review.

Q. My application based on persecution was denied by USCIS. Can I ask for reconsideration?

A. Requests to reopen persecution applications are made through the USCIS.

Exceptional Hardship

Q. How do I apply for a waiver based on exceptional hardship to my American citizen or permanent resident spouse or child?

A. Please note you will need to apply to both USCIS and the Department of State. Apply directly to the USCIS on [Form I-612](#) for a finding of exceptional hardship to an American citizen or legal permanent resident spouse or child of an exchange visitor. You must also complete Online Form DS-3035 on this website and pay the \$215 processing fee to the Department of State St. Louis address.

Q. When do I submit my Online Form DS-3035 and processing fee to the Department of State, Waiver Review Division?

A. You may submit your application and processing fee prior to submitting I-612 to USCIS or after USCIS has acted favorably on your I-612.

Q. Do I need to send anything, in addition to USCIS submission to the Waiver Review Division?

A. No, if you have paid your \$215 processing fee and submitted your completed DS-3035 Online Form, unless the Waiver Review Division makes a specific request directly to you. Once CIS makes a finding of exceptional hardship, on I-613 form, it forwards the whole hardship file to the Waiver Review Division for our consideration.

Q. Can I apply for a waiver based exceptional hardship and fear of persecution simultaneously?

A. No. Persecution claims should not be intertwined with claims of exceptional hardship.

Q. How can I check on the status of my exceptional hardship application?

A. You may check the status of your case on-line using your waiver case number on this website. If you feel there's been an error with your case, you can contact the Public Inquiries Division 202 663-1225. Your concerns regarding processing of I-612 application should be directed to the Citizenship and Immigration Services 1-800-375-5283. The Waiver Review Division can only take action on your case when all the required documents have been received and your case file is complete for review.

Q. My exceptional hardship application was denied by USCIS. Can I ask for reconsideration?

A. Requests to reopen an exceptional hardship application are made through the USCIS.

State Department of Public Health, CONRAD waivers

Q. How do I apply for a waiver based on a request from a state department of public health?

A. The applicant is responsible for submitting the following:

- Completed Online Form DS-3035 available on this website
- [Processing fee](#): cashier's check or money order for \$215

- If the foreign medical graduate EV received funding from his/her home government to participate in the exchange program, the home government must submit a "No Objection" statement directly to the Waiver Review Division.

The state public health department, if it has agreed to sponsor you for a waiver, must send directly to the Waiver Review Division the following documents in the application package:

- Copies of all DS-2019/IAP-66 forms
 - Curriculum vitae
 - Form G-28 or letter from a law office if applicant has an attorney
 - Two self-addressed stamped, legal-size envelopes.
 - A letter from the State health department's designated official (designated by the state governor) which states it is in the "public interest" that the exchange visitor physician remain in the U.S. and includes the following:
 1. Exchange visitor's name
 2. Country of last legal permanent residence
 3. Name of medical facility
 4. Address of facility
 5. U.S. Department of Health and Human Services designated Health Professional Shortage Area (HPSA) ID number of medical shortage area
 - A letter from the facility that wishes to hire physicians.
 - Evidence that the facility is in a Health Professional Shortage Area (HPSA) or a Medically Underserved Area (MUA)
 - A signed contract for no less than 40 hours a week for three years between the facility and the physician, with signatures of physician and head of the facility.
- For quicker processing, the State health agency may submit both its and the applicant's required documentation together. Please note the **CORRECT ADDRESS** to send the documentation.

Q. Can you tell me which areas have been designated underserved by the U.S. Department of Health and Human Services?

A. This information falls under the jurisdiction of the [U.S. Department of Health and Human Services](#). Please contact that agency directly for the information.

Q. Who are the contact persons for each state public health department?

A. Please refer to the list of [designated points of contact for State Health Departments](#) available on this website

Extensions of J-1 Status

Q. How can I extend or change my status, or transfer to another program?

A. The Program Designation Branch in the Bureau of Education, Cultural Exchanges and Academic Programs (ECA) handles J-1 extensions, category changes, and program transfers. You will need to contact ECA directly if you have further questions about one of these issues. They can be reached at 202-203-5096.

Q. How does an exchange visitor acquire an extension of the 30-day voluntary departure status?

A. You will need to contact Citizenship and Immigration Service (CIS), Department of Homeland Security, for an extension of the 30-day, post-program, voluntary departure status period.

Q. How do I acquire an extension beyond the maximum limitation of stay of my exchange visitor program?

A. You will need to contact your responsible officer/alternate responsible officer at your institution concerning an extension.

Dependent Spouses and Children/J-2 Questions

Q. I am the J-2 spouse and/or child of a J-1 who is subject to the two-year home residence requirement. Am I subject also?

A. Yes. A J-2 is subject to the same requirements as a J-1.

Q. If the J-1 obtains a recommendation for waiver of the two-year home residence requirement, will that apply to the J-2 derivative applicants?

A. Yes, if the J-1 receives a favorable recommendation from the State Department, which is forwarded to USCIS, and USCIS grants the waiver, then the J-2s will also benefit from the waiver.

Q. Can a J-2 apply independently from the J-1 for a waiver of the two-year home residence requirement?

A. J-2 cannot independently apply for a waiver. However, in cases of death or divorce from the J-1, or when a J-2 child reaches age 21, the Waiver Review Division may consider requests for waivers on behalf of the J-2 on a limited case-by-case basis. If the J-2 feels that his/her case merits special consideration by the Waiver Review Division, he/she will need to complete Online Form DS-3035, pay the processing fee, and submit the appropriate statements of reason. The Division will also need the J-1's DS-2019/IAP-66 forms and divorce decree or death certificate, whichever is applicable. For a dependent J-2 son or daughter who has turned 21 the Division will also need a copy of his/her birth certificate.

Question Concerning Exchange Visitors who do not return home but move to another country, i.e. Canada.

Q. For example, if the EV from country X completes the J program in the US, but instead of returning home to country X, moves to another country Y, i.e. Canada, and acquires landed immigrant status there, can the EV fulfill the two-year foreign residence requirement in Canada?

A. No. The country which was your country of legal permanent residence at the time you received your J-1 status is the country to which you must return to fulfill the two-year foreign residence requirement.

Processing Fee Questions

Q. Who must pay the processing fee?

A. The J-1 applicant is responsible for paying the processing fee, not the dependent J-2 spouse or child who will benefit from the J-1's waiver, if one is granted.

Q. How much is the processing fee and in what form must it be paid?

A. The fee is \$215 and it must be paid in a U.S. currency cashier's check or postal money order drawn on a U.S. financial institution. The check should be made payable to "U.S. Department of State" and sent to a lockbox address in St. Louis. For further information, please review the [Fee Required for J Waiver Processing page](#).

Q. Where do I send the processing fee?

A. Follow the instructions on the [Fee Required for J Waiver Processing page](#).

Q. At what point in the application process is the processing fee sent?

A. The fee should be sent with your completed Online Form DS-3035 at the beginning of the application process.

Q. If I withdraw my application for a waiver recommendation, may I get a refund of my processing fee?

A. No. Processing fees are NOT refundable.

Q. If I have already applied for a waiver review once and was denied, do I have to pay the processing fee again if I reapply using a different basis for the waiver?

A. Yes. Once you have received a final determination on your application from the Waiver Review Division, any subsequent applications must be completely re-submitted, including the \$215 processing fee. However, the same case number must be used even for the subsequent application.

Q. Should I send the fee in several times just to make sure you've received it?

A. No. If you do this, you are very likely to pay more than once for the same service since we will not be able to retrieve your duplicate payment and refund the money to you. All processing fees paid are non-refundable.

Processing Times

Q. How long should it take before I get a decision on whether you will recommend a waiver in my case?

A. See [Estimated Processing Times](#)

Status Inquiries: For all status inquiries, [check your status online](#) first.

Q. Where can I get information on the status of my application?

A. You should rely on the online [J Visa Waiver Status system available on this](#) website or if you think there's been an error with your case, you may call the Public Inquiries Division 202-663-1225. We will contact you if we need any additional information and we will notify you of our recommendation decision. Since CIS is the final waiver authority, until CIS notifies you of an approved waiver, you must consider yourself without a waiver of the 212(e) home-residence requirement and act accordingly. Inform us of any [change of address](#) so we have your current address in our records so we can contact you if we need to or so we can forward to you our decision on your case.

Q. If I sent a fax or another document for my case, can I call and check to make sure that you have received it?

A. No. This is not necessary and we unfortunately do not have the resources to answer these inquiries. Please use online the J Visa Waiver Status system which will indicate whether particular or all required documents have been received.

Q. Will I be notified by the Waiver Review Division that my application has been forwarded to USCIS?

A. Yes. You will receive a copy of the recommendation. Thus, it is important to keep us informed of your current address. CIS will make the final decision regarding the waiver application and contact you directly with their finding.

Q. If my application is denied, will I be notified of the reasons why?

A. Yes.

Q. If I come in person to the Visa Office in Washington, D.C., will someone be able to speak to me about the status of my case?

A. No. Please do not travel to Washington, D.C. for this purpose. The Visa Office does not have an "in-person" information service. Use the J Visa Waiver Status Check website to access the status of your case or if you think there's been an error with your case call the Public Inquiries 202-663-1225.

Q. When does the Waiver Review Division consider the application is complete?

A. The Waiver Review Division considers the application complete and ready for review when all the required documents have been received, which usually includes completed Online Form DS-3035, payment of the processing fee, required documents from third parties such as a No Objection Statement, Request for an Interested Government Agency Waiver (IGA), a request from a state department of public health, or USCIS findings of exceptional hardship or persecution on I-613, and copies of all DS-2019/IAP-66 forms. And, if there has been U.S. Government funding, input from the U.S. Government funding source.

Final Determination of Waiver Applications

Q. After a favorable recommendation for a waiver is made and transmitted by the Waiver Review Division to the USCIS, what is the next step?

A. USCIS will make the final decision regarding the waiver and will contact the exchange visitor directly using the address provided by the applicant. It is important for you to keep us informed of any address changes.

Q. What is the reason most applications are denied?

A. Applications are denied because the reasons given for requesting the waiver do not outweigh the program and foreign policy considerations of the exchange visitor program. For this reason, waiver applications from exchange visitors who received U.S. Government funding are generally denied.

Q. Is there an appeal process for denials/unfavorable recommendations for a waiver by the Waiver Review Division?

A. No. Waiver Review Division's final recommendations may not be appealed. However, the visitor may be eligible to reapply for a waiver under another basis.

Q. What if I have new information that may affect my eligibility for a waiver recommendation? Can I just send it to the Waiver Review Division and ask for a reconsideration of my previously denied application?

A. If you have already received an unfavorable recommendation from the Waiver Review Division, that decision cannot be appealed. However, in exceptional hardship and persecution cases if you believe you have new relevant information which may result in a different finding you may consider applying again to CIS, but you need to start all over again, including paying the \$215 fee again. If your application is still pending with the Waiver Review Division and you have new relevant information, you may forward that information on to the Waiver Review Division. Please remember to write your waiver case number on any documentation you send and also on the outside of the envelope. Please note the [CORRECT ADDRESS](#) to send the documentation. However, we encourage all applicants to make their best case at the beginning of the process.

Advisory Opinions

Q. What is an advisory opinion request?

A. It is a request for the Waiver Review Division's opinion on whether the EV is subject to the INA 212(e) two-year foreign residence requirement

Q. When should I request an advisory opinion?

A. If you are unclear whether you are subject to the INA 212(e) two-year foreign residence requirement.

Q. Can anyone request an advisory opinion on my behalf?

A. The exchange visitor (EV), EV's attorney or EV's responsible/alternate officer may request an advisory opinion.

Q. What information should I include in my request for an advisory opinion?

A. You should mail legible copies of all your DS-2019/IAP-66 forms along with the written request for an advisory opinion. We do not recommend sending your request by fax because DS-2019/IAP-66 forms frequently become illegible during the fax process.

Q. Where do I send the request?

A. You should send your request to the following address:

INA 212(e) Advisory Opinion Request
Waiver Review Division, CA/VO/LW
U.S. Department of State
2401 E Street, NW, (SA-1, L-603)
Washington, DC 20522-0106

Skills List Questions

Q. What is the [Exchange Visitors Skills List](#)?

A. It is a list of fields of specialized knowledge and skills that are needed in the exchange visitor's home country for its development.

Q. How does an exchange visitor determine if his/her country has a skills list?

A. The current skills list is published in the Federal Register, Volume 62, No. 11, January 16, 1997 (pages 2448 to 2516). The 1972 skills list appeared in Vol. 37, No. 80, April 25, 1972, 8099-8117. The 1984 skills list appeared in Vol. 49, No. 114, June 12, 1984, 24194-24249. Amendments to the skills lists were published in the following Federal Registers: Vol. 43, No. 29, February 10, 1978, 5910-5912; Vol. 51, No. 189, September 30, 1986, 34701; Volume 52, No. 24, February 5, 1987, 37444; Volume 52, No. 53, March 19, 1987, 8700; Volume 53, No. 242, December 16, 1988, 50619; Volume 58, No. 143, July 28, 1993, 40466.

Q. Which country's skills list applies to me?

A. If the country of your nationality differs from the country of your last legal permanent residence at the time you obtained your J-1 status, the skills list from the country of your last permanent residence at the time you obtained your J status would apply. If both are the same, then the skills list from your country of your nationality would apply. Some countries do not have a skills list.

Q. How do I determine if the funding I received for my program was government provided?

A. You should consult with your responsible program officer for assistance in making this determination.

Q. Does funding provided by an international organization make me subject to the two-year home residence requirement?

A. Yes.

Miscellaneous Questions

Q. Can I serve my two-year home residence requirement in the U.S. or a third country?

A. The period of time a former exchange visitor spends in the U.S. or a third country may count towards fulfillment of the two-year home residence requirement if the person is employed by his or her government in its military service or career foreign service and that person is serving in a country other than the home country at the behest of his/her government. Before the Department can determine that the individual has satisfied the foreign residence requirement, we require a written statement from an official of the home government (through the home-country's embassy in Washington, D.C.) that the individual was or will be serving in the U.S. or third country in the service of his/her home country and at that government's request.

Q. How do I know what my case number is?

A. When you filled out the Online Form DS-3035 application online you will be issued a case number upon completion of the application. Although the application itself cannot be submitted online, using the online system allows you to receive a case number immediately along with instructions.

Q. Do I keep the same case number even if I reapply?

A. Yes, the case number will remain the same notwithstanding any subsequent applications or advisory opinion requests. If an EV was initially assigned a case number from an advisory opinion request, that same number will apply to the EV if he/she applies for a waiver at a later date.

Q. How do I get a copy of Form DS-3035?

A. Download the application from this website. [J Visa Waiver Online](#).

Q. Where can an exchange visitor obtain copies of his/her lost DS-2019/IAP-66 forms?

A. Your responsible officer or alternate responsible officer of the exchange visitor program in which you participated while on the J-1 visa should be able to supply you with a copy of your lost DS-2019/IAP-66

form. However, it is your responsibility to keep all your IAP-66 and DS 2019. We cannot proceed with your case until all the IAP-66 and/or DS 2019 are received.

Q. What if I cannot get a duplicate copy of my IAP-66 or DS-2019, what can I do?

A. The Waiver Review Division will accept a signed letter from your responsible program officer (RO) which must include information about your program and your participation in it.
(December 2006)