



October 24, 2023

PA-2023-30

Policy Alert

SUBJECT: Foreign Residence Requirement for Nonimmigrant Exchange Visitors

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) regarding the 2-year foreign residence requirement for the nonimmigrant exchange visitor (J) visa classification.

Background

The J-1 visa classification is for exchange visitors who intend to participate in an approved program for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, receiving training, or receiving graduate medical education or training.¹ Certain J-1 exchange visitors are subject to a foreign residence requirement, which requires that they reside and be physically present in their country of nationality or last legal residence abroad for an aggregate of at least 2 years before they are eligible to apply for an immigrant visa, adjustment of status, or a nonimmigrant H, L, or K visa.²

On June 8, 2023, USCIS published comprehensive guidance on the exchange visitor classification in the Policy Manual.³ USCIS is now updating guidance to further clarify how USCIS determines whether a benefit requestor has met the 2-year foreign residence requirement.

This guidance, contained in Volume 2 of the Policy Manual, is effective immediately and applies prospectively to benefit requests filed on or after October 24, 2023. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

Policy Highlights

- Clarifies that USCIS determines whether the exchange visitor has met the 2-year foreign residence requirement within the context of a subsequent application or petition under the preponderance of the evidence standard.

¹ See [INA 101\(a\)\(15\)\(J\)](#) and [INA 212\(e\)](#). See [8 CFR 214.2\(j\)](#).

² See [INA 212\(e\)](#).

³ See [Nonimmigrant Exchange Visitor \(J\) Visa Classification](#), PA-2023-17, issued June 8, 2023.

- Explains that a travel day, where a fraction of the day is spent in the country of nationality or last residence, counts towards satisfaction of the 2-year foreign residence requirement.
- Provides that USCIS considers situations in which it is impossible for the benefit requestor to satisfy the 2-year foreign residence requirement on a case-by-case basis, and that USCIS consults with the Department of State in this situation.
- Clarifies the three exceptions to the requirement that a foreign medical graduate obtain a contract from a health care facility in an underserved area when seeking a waiver of the 2-year foreign residence requirement.

Summary of Changes

Affected Section: Volume 2 > Part D > Chapter 3 > Section F, Foreign Residence Requirement

- Adds a new final sentence to the first paragraph.
- Adds new content under a new italicized heading, “Determining if the Foreign Residence Requirement has been Met,” after the bulleted list.

Affected Section: Volume 2 > Part D > Chapter 4 > Section F, Foreign Residence Requirement

- Revises the third bullet and the second sub-bullet and adds a third new sub-bullet in the bulleted list in Subsection 1 (General Requirements).
- Revises the second paragraph in Subsection 2 (Evidence).

Affected Section: Volume 2 > Part D > Chapter 6, Family Members of a J-1 Exchange Visitor

- Revises the second paragraph.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 2: Nonimmigrants, Part D, Exchange Visitors (J), Chapter 3, Terms and Conditions of J Exchange Visitor Status [[2 USCIS-PM D.3](#)]; Chapter 4, Waiver of the Foreign Residence Requirement [[2 USCIS-PM D.4](#)]; Chapter 6, Family Members of J-1 Exchange Visitor [[2 USCIS-PM D.6](#)].