



## WVHEPC J-1 Exchange Visitor Program

### INSTRUCTIONS FOR APPLYING FOR A WAIVER OF THE TWO-YEAR FOREIGN RESIDENCE REQUIREMENT PERTAINING TO EXCHANGE VISITORS ON THE J-1 VISA

#### Overview

Exchange visitors may be subject to the two-year foreign residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended, for one or more of the following reasons:

- a. They received funding from the United States Government, their own government, or an international organization in connection with their participation in the Exchange Visitor Program.
- b. The education, training, or skill they are pursuing in this country appears on the Exchange Visitor Skills List (1997 Amendment) for their country.
- c. They acquired J-1 status on or after January 10, 1977, for the purpose of receiving graduate medical education or training.

Exchange visitors who are subject to, but do not wish to comply with, the two-year home country residence requirement, may apply for a waiver of that requirement under any one of the five applicable grounds provided by the United States immigration law.

#### Applicable Grounds for a J-1 Visa Waiver

1. "No Objection" statement from the home government

Note: The law precludes use of this option by medical doctors listed in "c" above.

The exchange visitor's government must state that it has no objection to the exchange visitor not returning to the home country to satisfy the two-year foreign residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended, and remaining in the U.S. if he or she chooses to do so.

2. Request by an interested (U.S.) Government agency, or IGA

If an exchange visitor is working on a project for or of interest to a U.S. Federal Government agency, and that agency has determined that the visitor's continued stay in the United States is vital to one of its programs, a waiver may be granted if the exchange visitor's continued stay in the United States is in the public interest.

Note: For applications on behalf of foreign physicians, who agree to serve in medically underserved areas, please refer to Federal Register Volume 62, No. 102 of May 28, 1997.

3. Persecution

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.

4. Exceptional hardship to a United States 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 mere separation from family is not considered to be sufficient to establish exceptional hardship.)

5. Request by a designated State Department of Health or its equivalent

Note: The law permits only medical doctors to apply for a waiver on this basis. Pursuant to the requirements of Public Law 103-416, of October 25, 1994 and Public Law 107-273, of November 2, 2002, foreign medical graduates who have an offer of full-time employment at a health care facility in a designated health care professional shortage area, and agree to begin employment at the facility within 90 days of receiving such waiver, and who sign a contract to continue to work at the health care facility for a total of 40 hours per week and not less than three years, may apply for a waiver.

Each state is allowed thirty waivers per federal fiscal year. Five of the thirty requests may be specialists who can practice medicine outside of Health and Human Services designated health shortage areas.

### **Procedures for Waiver Applications**

To apply for a recommendation for a waiver of the two-year home residence requirement under any of the above bases, applicants must complete the following:

#### **STEP 1**

Complete Department of State Form DS-3035, J-1 Visa Waiver Recommendation Application Instructions.

- o The preferred method for completing the form is to use J Visa Waiver Online. Follow the instructions for mailing in the form. If completing the form on the J Visa Waiver Online, skip Step 2 and proceed to Step 3. The online waiver can be found at [http://travel.state.gov/visa/temp/info/info\\_1296.html](http://travel.state.gov/visa/temp/info/info_1296.html).
- o If you wish to complete the form by hand, mail it, along with any supporting documentation, two self-addressed, stamped, legal-size envelopes (S.A.S.E) and a cashier's check or money order for US\$2120.00 per application, payable to the U.S. Department of State to:

#### **Postal Service**

US Department of State  
Waiver Review Division  
P. O. Box 952137  
St. Louis, MO 63195-2137

#### **Courier Service**

US Department of State  
Waiver Review Division  
(Box 952137)  
1005 Convention Plaza  
St. Louis, MO 63101-1200

**Please Note:**

- o **ONLY APPLICATIONS ON REVISED FORM DS-3035 WILL BE ACCEPTED.** Applications with other versions of Form DS-3035 will be returned to the sender without processing.
- o **THE PROCESSING FEE IS NON-REFUNDABLE.**
- o Please write the applicant's full name, date of birth and Social Security Number, if any, on the cashier's check or money order.
- o Remittances must be drawn on a bank or other institution located in the U.S. and made payable in U.S. currency to the U.S. Department of State.
- o If the applicant resides outside the United States at the time of application, remittance may be made by bank international money order or foreign draft drawn on an institution in the U.S. and made payable to the U.S. Department of State in U.S. currency.

**Please do NOT fax or mail copies of your form DS-3035 to the Waiver Review Division. The lock box in St. Louis will forward the completed form to the Waiver Review Division. If you fax or mail copies to the Waiver Review Division, it will NOT be processed.**

**STEP 2 (If not using J Visa Waiver Online)**

Once the Waiver Review Division has received the form, they will use your self-addressed, stamped, legal-size envelopes to send you a case number and instruction sheet on how to proceed with your application under the basis you designated on your application. This instruction sheet will include a list of documents that you must submit to complete your waiver review application.

**STEP 3**

In all correspondence with the Waiver Review Division, you must write the full case number on all documentation you submit and on the outside envelope. Otherwise, the documents you submit will be returned to you.

It is your responsibility to submit all requested documents and ensure that required letters are sent on your behalf. The Waiver Review Division will NOT follow up on documents that have not been received. Rather, it will be your responsibility to ensure that your file is complete. You may check on the status of your application by visiting the J Visa Waiver Status Check website.

Some documentation (such as a "No Objection" statement from your government, and applications by a Conrad /State Health agency or Interested Government Agency) must be submitted directly to the Waiver Review Division by that third party. In that case, you, as the applicant, must request that the third party agency write your full case number on any documentation and on the outside of the envelope to be sent to the Waiver Review Division. You may, if the third party agrees, have all of your documents forwarded to the Waiver Review Division through the third party.

Exchange visitors applying for a waiver on the basis of persecution or exceptional hardship to a U.S. citizen or legal permanent resident spouse or child MUST complete and submit Form I-612, Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act, as amended, directly to the United States Citizenship and Immigration Services.

#### **STEP 4**

At the conclusion of the review process, the Waiver Review Division will forward its recommendation directly to the United States Citizenship and Immigration Services (USCIS) in the Department of Homeland Security. You will receive a copy of that recommendation at the address you listed on Form DS-3035.

USCIS has the responsibility for making the final determination on your waiver request. USCIS will notify you directly, whether your waiver application, Form DS-3035 is denied or approved.

NOTE: A waiver of the two year home residency requirement is a personal application and HEPC member institutions cannot assist with your application.