

## **Two-Year Home Residence Requirement 212(e)**

### **What is the 212(e) two-year home country physical presence requirement?**

The 2-year home residency requirement called 212(e) applies to certain J-1 exchange visitors. If you are subject to the 212(e), the requirement should be noted on your visa or at the bottom of your DS-2019. You will be required to return to your home country at the end of your exchange visitor program and be physically present there for an aggregate of two years before being eligible to return to the United States in immigrant status (permanent resident/green card), H status (temporary workers and dependents), K (fiancé), or L status (intracompany transferees and dependents). Exchange Visitors subject to the two-year home country residence requirement are not eligible to change their nonimmigrant status in the U.S. from J to permanent residence or to any other nonimmigrant category except A (diplomatic) and G (international organization).

This requirement is different from the 12-month and 24-month repeat participation bars. Please read and understand section 1(a) on the second page of the enclosed DS-2019. This requirement is normally associated with government funding (from your country or the United States) and/or the U.S. Department of State skills list. To see if your country and skill results in this requirement, please check the skills list at:

[www.travel.state.gov/content/visas/en/study-exchange/exchange/exchange-visitor-skills-list.html](http://www.travel.state.gov/content/visas/en/study-exchange/exchange/exchange-visitor-skills-list.html)

### **How Do I Know If I Am Subject to the Two-Year Requirement?**

Please note that only the Bureau of Educational and Cultural Affairs can determine with certainty whether or not you are subject to the requirement. Many exchange visitors are under the impression that this is decided when a consular officer stamps the visa or eligibility document (DS-2019) with a statement that the visitor is not subject to the requirement. However, this is only a preliminary determination by the consular officer. You may write to the Bureau of Educational and Cultural Affairs to request an “advisory opinion” on whether or not you are subject to the requirement if you are uncertain about your status.

Note: Former Exchange Visitors are eligible to return home and obtain a visa for all other nonimmigrant visa types, even if subject to the two-year residence requirement. Only lawful permanent residence, and H, K, and L visas are prohibited. Exchange Visitors subject to the two-year residence requirement are eligible to leave the U.S. and apply for visas to return as tourists or F-1 students as long as they are otherwise eligible for those 12 visas. The two-year home residence requirement should NOT be confused with the 24-month bar on repeat participation.

### **What are the 212(e) conditions?**

Two-year Home-country Physical Presence Requirement Conditions - An exchange visitor is subject to the two year home country physical presence requirement if the following conditions exist:

- Government funded exchange program - The program in which the exchange visitor was participating was financed in whole or in part directly or indirectly by the U.S. government or the government of the exchange visitor's nationality or last residence;
- Graduate medical education or training - The exchange visitor entered the U.S. to receive graduate medical education or training;
- Specialized knowledge or skill: Skills List - The exchange visitor is a national or permanent resident of a country that has deemed the field of specialized knowledge or skill necessary to the development of the

country, as shown on the Exchange Visitor Skills List. Review the Exchange Visitor Skills List 2009 found at <https://travel.state.gov/content/visas/en/study-exchange/exchange/exchange-visitor-skillslist.html>

Note: If you are not subject to the 212(e) Two -Year Home Residence Requirement, you may be subject to the 24-month bar after completing a J-1 program as a Research Scholar or Professor.

### **Frequently Asked Questions**

1. May I extend or transfer my program if I am subject to the 212(e) rule? • Persons with a two-year residence requirement are eligible for program transfers and extension of their J status up to the limits of time for their particular Exchange Visitor category.
2. I have J-2 dependents traveling with me. Are they subject to the 212(e) rule also? • If the principal J-1 Exchange Visitor is subject to the two-year residence requirement, dependents in J-2 status are subject as well.
3. Are my J-2 dependents required to live with me? • Yes.
4. May a waiver of the 212(e) rule be requested? How so?
  - An Exchange Visitor may request that the two-year home residence requirement be waived only on the following grounds:
    - Statement from the Exchange Visitor's home country that it has no objection to the waiver.
    - Request for waiver made by an interested U.S. government agency.
    - Interest of a state agency (only for alien physicians).
    - Exceptional hardship to the U.S. citizen or permanent resident spouse or child of the Exchange Visitor.
    - Fear of persecution on account of race, religion, or political opinion.