

Important Information for J Visa Holders

An explanation of the difference between Regulation 212(e): “The two year home country physical presence requirement” and the two year bar to repeat participation in the J-1 Professor/Research Scholar category.

The J-1 exchange visitor status has several different categories and each category has its own associated regulations (i.e. J-1 student, J-1 scholar, J-1 professor, J-1 short-term scholar).

The J-1 "Short-Term Scholar" visa would be the best visa category for a short scientific visit. This category limits the stay to six months in the U.S., but using that short term category does not prohibit one from coming back as a J-1 in the regular "Research Scholar" category.

The U.S. State Department recently changed the regulations to allow a [regular] research scholar stay to be extended up to five years. However, if one begins a regular research scholar program and does not use the entire five years of eligibility, they can not come back to the U.S. as a J-1 in the regular research scholar category for two years. That is why if someone is coming for around six months or less, NDSU now always uses short term-scholar. In this way we do not inadvertently subject someone to the "Two year bar to repeat participation in the J-1 Research Scholar category".

This two year bar to **repeat participation** is specific to the **J-1 Research Scholar category** and is different than Regulation 2121(e), "The two year home country physical presence requirement". **All J-1's in the regular Research Scholar category only are subject to the two year bar to repeat participation in same category regardless of country or funding source.**

Subjectivity to 212(e) is not dependent on category. It depends on the skills list related to country of origin and/or funding. **If a specific exchange visitor is subject to 212(e), it will affect the exchange visitor regardless of category used.**

One can not apply for a change of status to F-1 inside the U.S. if they are subject to 212(e). However they can apply for an F-1 visa at a Consul abroad.

One can never get an H-1B visa or green card so long as there is an unfulfilled 212(e) subjectivity **anywhere in their immigration history** even if they do not currently hold J-1 status.

J status can **NOT** be extended once a recommendation for a waiver of 212(e) has been issued. However the exchange visitor is eligible to use the remaining J time left on the DS 2109. (This includes the ability to transfer to another J program within the remaining time).

A person can “re-subject” themselves to 212(e) by participating in a second J program. For example, if a J-1 “short-term scholar” or J -1 “student” has returned to their home country for a year and then comes back to the U.S. on a J visa, they may re-subject themselves once again to 212(e). **However the maximum amount of time they can ever be required to return is two years total.**