



**J-1 OR H-1B: A COMPARISON**

**J-1 EXCHANGE VISITOR STATUS**

**H-1B TEMPORARY SPECIALTY WORKER STATUS**

The Office of International Affairs has a \$650 recharge fee for Schools and Departments to sponsor a scholar for a J visa. This fee must be paid for each request including extending the DS-2019 at a later time when there is a new appointment.

Any requests for J-1 visa services received in less than the established timelines below will be subject to a \$350 expedite fee.

- Initial J-1 entry - Less than 3 months before appointment start date will incur an expedite fee
- Change of Status Applicants - Less than 4 Months before appointment start date
- Extensions/ Transfers - Less 2 Months before appointment start date

The School or Department must pay all fees when starting or porting an employee for an H-1B visa. There are also fees to extend/amend H-1B status. Below are the current fees:

- Outside Counsel Legal Fees - \$1,800 - \$2,800
- USCIS I-129 Filing Fee - \$460
- USIS Fraud Prevention & Detection Fee - \$500
- Office of International Affairs Recharge Fee - \$750
- Office of International Affairs Expedite Fee if request submitted in less than 3 months from appointment start date - \$350

By law, these fees must be paid by the School or Department, not the employee. Furthermore, the School or Department will have to pay for all future fees to extend H-1B status.

Amount of time and work required of the School or Department is minimal.

Amount of cost, time and work required by your School or Department is significant and more burdensome.

Processing costs to the School or Department are described above. The employee is responsible to pay all fees charged by the U.S. Department of State or U.S. Consulate when applying for the J visa. In addition to the DS-160 visa application fee, there is a SEVIS I-901 fee (for J-1 principal only; not for any dependents).

The only processing costs that can legally be passed on to the employee are any legal and USCIS filing fees for dependents if applicable.

The employee is responsible to pay all fees charged by the U.S. Department of State or U.S. Consulate when applying for an H-B visa.

J-1 requests take two weeks to process and issue the Form DS-2019.

ISS requires three months to work on an H-1B request prior to filing it with USCIS; USCIS can take 8 to 12 months to adjudicate the petition, unless the Premium Processing fee is paid (15 day processing time). This USCIS fee is \$2,500.

J-1 scholars must pay for all costs of travel for themselves, their dependents, and their belongings (unless their academic departments put in writing that these costs will be covered).

H-1B scholars must pay for all costs of travel for themselves, their dependents, and their belongings (unless their School or Departments put in writing that these costs will be covered).

One exception for scholars in H-1B status is that they may request the department pay for return airfare to their home country if their appointments are ended prematurely.

J-1 scholars may qualify to be paid for incidental, short-term contractual work understood as "occasional lectures and consultations"

H-1B work authorization is employer- and job-specific. If the original appointment changes in any manner including the work site location, if the H-1B scholar wants to take a second job, or if the H-1B scholar simply wants to accept an honorarium for a special presentation, a new "concurrent H-1B"—with all the expenses paid by the employer as described above—must be filed with USCIS before said change can occur.

J-2 dependents can apply for work authorization.

H-4 dependents are not eligible to receive work authorization.

Scholars in J-1 status will remain nonresident aliens for tax purposes for a longer period of time, thus avoiding paying payroll taxes and income tax on worldwide income.

Scholars in H-1B status are typically taxed as U.S. citizens, on worldwide income.

**CONTINUED**

<b>J-1 EXCHANGE VISITOR STATUS</b>	<b>H-1B TEMPORARY SPECIALTY WORKER STATUS</b>
<p>Funding sources that Schools and Departments use for J-1 scholars may be mixed and complex—<i>e.g.</i>, from UC Merced and/or a grant and/or other organizations, <i>etc.</i></p>	<p>H-1B Specialty Workers must be paid from UC Merced sources as salaried employees, with income and payroll taxes withheld.</p>
<p>J-1 scholars can accept whatever pay is offered by their School or Department. If it is not enough to cover living costs, additional sources of support must be provided by the scholar.</p>	<p>H-1B scholars must be paid the prevailing wage rate as determined for the occupation in the metropolitan statistical area.</p>
<p>When applying for a J-1 Exchange Visitor visa, scholars must show ties to their home countries that demonstrate that they will return once their appointment at UC Merced is completed.</p>	<p>When applying for an H-1B visa, scholars are not required to show ties to their home countries.</p>
<p>Some J-1 scholars (depending on funding and US government agreements with scholar's government) may be subject to the two-year home country physical presence requirement 212 (e). This means that once the J-1 appointment is completed, scholars must go back to their home countries for at least two years.</p> <p>Although the two-year home residency rule prevents individuals from qualifying for H, L, or Permanent Residency statuses (until satisfying or waiving the two-year rule), it does not prohibit entry to the U.S. in other statuses for short-term visits.</p> <p>J-1 scholars who find that they are subject to the two-year requirement may apply for a J waiver. Scholars from most countries (including China, India, and South Korea) are able to get waiver applications approved in about six months. Almost all waiver applications are successful. A DS-2019 cannot be extended if a scholar has applied for a J waiver so timing and advice from an ISS visa specialist is important before submitting a J waiver request.</p>	<p>The two-year home residency rule can be applied ONLY to those in J-1 status—not H-1B status.</p> <p>To be eligible for H-1B status, scholars must not have 212 (e) the two-year home residency rule pending.</p>
<p>Scholars may hold J-1 status for up to five years. Except for tenure-track or tenured faculty positions, for which J-1 status is not permitted. Scholars with long-term plans to apply for Permanent Residency often find J-1 status extremely valuable. Starting in J-1 status and then changing to H-1B offers scholars an extra five years to achieve accomplishments, establish extensive documentation in support of academic excellence, and to be offered a position at UC Merced that the institution might sponsor for Permanent Residency.</p>	<p>Scholars may hold H-1B status for up to six years (initial status for three years with a three-year extension). Except for tenure-track or tenured faculty positions, scholars with long-term plans to apply for Permanent Residency often find that bypassing J-1 status and going directly to H-1B does not allow them enough time to accumulate achievements, recognition, or the right job offers. Thus, they may not receive institutional support when trying to apply for Permanent Residency, and may pay \$5,000 to \$10,000 for a private attorney.</p>

**Important Note:** Both J and H-1B visa approvals are tied to the foreign national employee's appointment dates. If an appointment is for one year, the J or H-1B visa will only be valid for that year. Fees noted at the beginning of this document would then be due again to extend the J or H-1B visa following reappointment of the foreign national employee.