

CHANGES IN J-1 PROFESSOR AND RESEARCH SCHOLAR PROGRAM

On May 19, 2005, the U.S. Department of State (DOS) published a final rule to implement a few changes to the Exchange Visitor (EV) regulations. Below you will find two major changes to the rule.

- Increase in the maximum period of participation for J-1 professors and research scholars from three years to five years; and
- Creation of the Two-Year Bar on repeat participation in the J-1 professor and research scholar categories for those who complete their program participation in the same categories

Five-Year Program Participation

A professor or research scholar may be authorized to participate in the Exchange Visitor Program for up to five years. Under no circumstances, will an extension beyond the five-year stay be granted.

The five-year period is continuous and begins with the initial program begin date documented in SEVIS (via SEVIS Validation after necessary deferment of the begin date due to late arrival) or the date such status was granted by USCIS (via Change of Status). During this fixed five-year window, an EV can participate in one or more programs via transfer if needed.

Unlike the six years of H status eligibility which only counts physical presence in the U.S. in such status, the five-year period for J-1 professors and research scholars is not an aggregate of five years. Thus, this period is given to a participant on a “use or lose” basis.

Please note that the Five-Year eligibility window will be closed if the EV's SEVIS (Student and Exchange Visitor Information System) record no longer remains “active.” Therefore, it is crucial that the scholar communicates with us regarding any absence from WSU or from the U.S. in a timely manner.

Absence from the United States

Since OISS needs to keep the EV's (including dependent J-2's) record active in SEVIS to keep the five-year window open, OISS needs to monitor any absence from the U.S. by J-1 professors and research scholars.

Using the form, **Notice of Absence from the United States**, OISS will keep track of any absence by J-1 professors and research scholars. The EVs will be advised to see an OISS Scholar Advisor to submit the form.

For a **program**-related reason, EV can be outside the U.S. for up to six months. OISS will keep the SEVIS record active for such cases as long as the EV including J-2s have purchased the federally-mandated health insurance covering the period of the authorized absence outside the U.S. OISS will require the sponsoring department to submit an official memo from the department chair (or dean in chair's absence) in addition to the Notice of Absence from the United States form. The department memo should include:

- Nature of the visit outside the U.S.;
- How it relates to the EV's original program objectives;
- Length of the visit outside the U.S.;
- Address of where the EV will conduct his/her EV program objective during the visit; and an
- Attestation that the sponsoring department will pay for the EV's federally-mandated health insurance for him/herself and J-2 dependents (if any) if EV neglects to do so prior to departure.

An EV, who is a professor and will not teach classes over the summer, must complete the Notice of Absence from the United States Form to keep the SEVIS record active. OISS will keep such records active in SEVIS as such absence is considered a valid program-related reason.

For a **non-program** related reason, the EV can be outside the U.S. for up to 30 days. He/she must complete the **Notice of Absence from the United States** Form to keep the SEVIS record active.

Health Insurance

Per DOS regulations, Wayne State University, as an exchange visitor program sponsor, must require each exchange visitor to have adequate health insurance coverage during the period of time that an EV participates in our exchange visitor program even if the EV leaves the U.S. as described above.

In order for us to keep the SEVIS record in active status, the J-1 professor/research scholar and his/her J-2 dependents (if any) must have health insurance coverage during the period which their SEVIS records are in active status. Thus, prior to an absence from

the U.S., EVs must purchase health insurance from OISS; or provide proof of comparable health insurance coverage by another insurance provider.

If there is no health insurance coverage, the EV's SEVIS record will be terminated. This means the J-1 professor/research scholar will be subject to the Two-Year Bar on "future" repeat participation in those categories.

Funding Requirements

If the EV is not a salaried employee at Wayne State University, OISS needs to make sure that he/she has enough funding to cover the entire period of stay. For example, if the EV will be at WSU for four years, he/she should provide proof of funding for \$69,220 (= 4 x \$17,305, which is the minimum funding requirement for 12 months) plus funding for dependents if any.)

If the EV is funded by an organization, the funding promise letter from the organization should list the entire funding required or the annual funding, in addition to the length of its financial sponsorship for the EV. For example, the letter could list \$69,220 for all four years as in the previous case; or it could state \$17,305 per year.

If the funding is not adequate, OISS will issue Form DS-2019 for the period which could be covered by the available funding. The EV can later apply for an extension with a new financial document that is less than six months old.

Two-Year Bar

The Two-Year Bar will apply only to those who have participated in the J-1 Professor or Research Scholar program in the past and want to return to the same category. This rule is to prevent "repeat participation" in those categories.

The Two-Year Bar will apply to J-1 Professors and Research Scholars who will complete his/her EV program on or after November 17, 2006 (i.e. the effective date of the rule). For example, if Dr. Doe is completing her J-1 professor stay of three years on 12/31/2006, she will be subject to the Two-Year Bar as she is finishing her participation in the J-1 Professor Category after November 17, 2006.

The Two-Year Bar will apply to the J-1 Professors and Research Scholars who either complete a full five years of program participation; or whose SEVIS record becomes "inactive" even before the full five year period is over. In the latter case, the five-year window is closed when the SEVIS record is no longer active. Thus, the foreign national is not eligible to access the remaining unused time, and must wait for two years before beginning a new program as a J-1 professor or research scholar.

To avoid an accidental closure of the five-year window, the EV's SEVIS record must continuously remain active and maintained. According to DOS, the continuity of the five-year eligibility period is broken if the EV completes a program before the five-year limit has been reached, and where the SEVIS record status changes to "Inactive."

The Two-Year Bar is not a home-residence requirement. The Bar requires only that the person not be in J professor or research scholar status for two years before becoming eligible for another participation in J professor or research scholar category. This Bar does not prevent an EV from participating in other J categories, such as in the J-1 student category.

OISS should use the J-1 Short-Term Scholar category for a stay up to six months when possible to prevent the EV from being subject to the Two-Year Bar. However, we need to make it clear to the sponsoring department that the short-term scholar can stay in the U.S. only for six months.

Change in Terms and Conditions of EV Programs

As all J exchange visitors must maintain his/her original exchange visitor program objective, any changes in terms and conditions of their EV program should be cleared by an OISS scholar advisor after reviewing an official memo from the department chair (or dean in chair's absence) detailing the changes and the logic behind the changes. The changes will be cleared by OISS only if they do not alter the EV's original program objective.

For more information, please contact OISS at 313/577-3422.