



A QUICK GUIDE TO VISAS AND IMMIGRATION STATUS FOR INTERNATIONAL POSTDOCS

DISCLAIMER

The following information is offered in an attempt to help international postdocs understand the basics of how to secure and maintain their immigration status during their research stay in the U.S. In no way is this information to be interpreted as individual advice, as there are many variables involved in this process. However, the following generalizations have been compiled for your use as a result of surveying many institutions that are host to international postdocs. If you are unsure how to proceed, you should consult with your home institution's international office in the U.S. or with an immigration attorney.

INTRODUCTION

When you come to the U.S. to conduct postdoctoral research, you must enter with an appropriate visa stamp (except Canadian citizens) and with the proper immigration documents. Although there are a variety of visa options available for an assortment of purposes, the most common statuses utilized for temporary research are the J-1 and the H-1B. The J-1 and H-1B visas require institutional certification that you have the essential academic and employment backgrounds, as well as the financial suitability to support yourself during your research stay. Further, each institution has a set of individualized policies and procedures to secure these types of visas, as well as their own time frame to obtain the required certifications.

SPECIAL NOTE: Canadian and Mexican citizens are also eligible for the TN status. For more information regarding the TN status, please see special section below entitled "For Canadian and Mexican Citizens."

After the institutional certification process is completed and the documents received, postdocs are required to secure the visa stamp at a U.S. embassy or consulate—usually in the postdoc's home country. Canadians are visa exempt and present the Notice of Approval or DS-2019 at the U.S. border. Please keep in mind that internal policies and procedures affecting visa issuance at the U.S. consulates will differ from country to country. When securing the visa stamp, in most instances, you must have a passport that is valid for six months beyond the anticipated ending date of your postdoctoral appointment.

Upon entering the U.S., you will be interviewed at the airport (or port of entry) and asked to present appropriate entry documents, which are discussed below. After the entry interview with the immigration officer, your "I-94" (the document you filled out on the airplane or, if entering by land, at the border) will be marked to reflect the amount of time granted for your research stay in the U.S. J-1 visa holders are generally admitted for "Duration of Status" (D/S), meaning until the ending date of the J-1 Form DS-2019 (see below). H-1B visa holders are generally admitted until the ending date on the H-1B approval notice.

If you require additional time in the same type of immigration status while you are in the U.S., you can request an extension of your visit while you are inside the U.S. Please note that usually there is no need to travel outside the U.S. to transact the extension. However, the time frame for obtaining the visa status extensions may vary from one U.S. Citizenship and Immigration Services (USCIS) regional processing center to another.

If you return to your home country during your research stay and desire to re-enter the U.S., you will need to have a valid visa stamp. If the visa stamp is not valid, you will need to renew it at a U.S. embassy or consulate unless you are visa exempt, such as those from Canada. Although it may not be necessary for you to apply at the location where you received your original visa stamp, applications for visas are usually more successful in your home country.

If you are a postdoc in J status, you are required to report certain activity, for example, your arrival and departure date and your residential address, to the institution that provided you with the DS-2019. You must report a new residential address to USCIS by submitting the AR-11, which is available on the USCIS web site. Failure to do so may result in severe penalties. Each time you move to a new residence, your change of address must be reported within 10 days of the move.

Finally, if you have exhausted the time limits of your status but would like to continue your stay in the U.S., you should first consult your institution's international office. Further, you may eventually need to consult with an immigration attorney as to what, if any, alternatives may be available to you..

If you are a J-1 visa holder returning to your home country, you may be required to remain there up to two years before being eligible for a change of status to certain other U.S. visas (two-year home country physical presence requirement). This is contingent upon agreements between your home country and the U.S. government, as well as the source of funding for your postdoctoral research. It is possible in certain circumstances to obtain a waiver of the home residency requirement.

GENERAL INFORMATION/GLOSSARY

What is a visa?

A visa is the “stamp” in your passport that represents the classification (student, visitor, worker, etc.) that you have been granted at a U.S. embassy or consulate prior to your arrival in the U.S. The visa will indicate the number of times you may enter or re-enter the U.S. with a particular visa classification. Please note that Canadian citizens are visa exempt.

What kind of visa should I apply for as a postdoc?

Normally a J-1 or H-1B visa. Below is a chart outlining the differing aspects of these two visas.

What does the term “home residency” mean?

This only applies to some, not all, J-1 or J-2 visa holders. The home residency requirement indicates that you must remain in your country of legal permanent residence or nationality for two years before applying for permanent residency in the U.S. or for H-1B visa status. This restriction applies if you are receiving U.S., home government, or international organization funding, or if your home country is registered in the “Home Country Skills List” and your area of specialization during the J-1 program is noted on that list.

What is DHS?

The Department of Homeland Security (DHS) manages admission, authorized stay and other immigration related benefits.

What is USCIS?

The U.S. Citizenship and Immigration Services (USCIS) replaced the former Immigration and Naturalization Service (INS).

What is DOS?

The Department of State (DOS) issues visa stamps and conducts other U.S. diplomatic business abroad.

What is DOL?

The Department of Labor (DOL) manages the wages and working conditions connected to the H-1B visa.

What is SEVIS?

The Student Exchange Visitor Information System (SEVIS) is an internet-based system that requires institutions to report various data regarding students on F and M visas as well as exchange visitors on J visas. Primary visa holders and their dependents in these visa classifications are required to report their home address, registration information, etc.

What is the DS-2019?

It is a certificate of eligibility for a J-1/J-2 visa and confirms that the institution has screened the Exchange Visitor for appropriate academic credentials and adequate financial support to undertake the research stay in the U.S. The DS-2019 has an expiration date and must be maintained with periodic institutional validations.

FREQUENTLY ASKED QUESTIONS

Question	J-1	H-1B
1 What is the purpose of this visa?	Provides foreign nationals with exchange opportunities in research as well as access to cultural and general educational programs.	Is a professional work visa and specific to the employer that petitions for you.
2 Who is eligible?	Reserved for researchers, faculty and scholars, specialists and speakers, and students in exchange programs. All are in the U.S. on fixed terms. Researchers must be brought in for a specific purpose as defined by the sponsoring institution.	Reserved for specialty occupations (scholars and scientists) that require theoretical and practical application of a body of highly specialized knowledge in a field of human endeavor. Requires a Ph.D. or equivalent for postdocs.
3 What are the differences between these visa types?	Institutionally preferred status for postdocs. Two-year home residency requirement is imposed if home country, international organization, or U.S. government funds the research or your home country is registered in the Home Country Skills List and your area of specialization is on that list.	Often approved for J-1 postdocs who have exhausted the five year limit. The H-1B status is typically reserved for employment purposes and not for academic exchange.
4 What is the maximum length of time for a visit?	Maximum of five years.	Up to six years. In certain circumstances the visa status may be further extended.
5 What are the requirements for obtaining the visa stamp?	The issuance of a DS-2019 confirms academic and financial screening by the sponsoring institution.	Employer must demonstrate the following: -employer-employee relationship; -position applied for is professional; -visitor holds minimum of BA/BS and, for postdocs, a Ph.D. or its equivalent and/or special skills; -salary paid is at prevailing wage or higher; -benefits are commensurate with other similar positions; -initial intent to hire is temporary; and -ability to pay for return transportation to home country if employer terminates job.

<p>6 Is there a cap on how many visas are issued?</p>	<p>No.</p>	<p>Yes. The cap for the H-1B visa is 65,000 annually. The federal year runs from October 1 through September 30.</p>
<p>7 Are certain employers exempt from an H-1B visa cap?</p>	<p>Not applicable.</p>	<p>Employees of institutions of higher education and affiliated or related non-profit entities are exempt from the 65,000 annual cap. They are also exempt from the 20,000 annual cap.</p> <p>SPECIAL NOTE: 20,000 additional H-1B visas will be available for those who have earned at least a master's degree from a U.S. academic institution.</p>
<p>8 Can you extend a visit?</p>	<p>The stay is restricted to a total of five years. J-1 visa stamps are usually extended for the length of the DS-2019, except in cases where foreign policy between two countries has defined a particular length of visa issuance.</p>	<p>Yes, but the total stay cannot exceed six years, except in rare instances.</p>
<p>9 I entered the U.S. as a J-1 exchange student and would like to continue as a postdoc. Since the J-1 visa is good for around three years, will my time on the J-1 visa as an exchange student affect my time on a J-1 visa as a postdoc?</p>	<p>J-1 students can apply for work authorization, called Academic Training (AT), in the student's field of study. This authorization is granted by the J-1 student's program sponsor (the institution which issues the DS-2019). AT allows for 18 months of employment (or the length of the study program, whichever is shorter) and is available before or after the completion of studies. Postdocs may extend their authorization for an additional 18 months, for a total of 36 months of employment.</p> <p>NOTE: J-1 students cannot change status to the J-1 researcher category because of a regulation called the "12-month bar," which requires a 12-month departure from the U.S. before the person can reenter in a different J visa program category.</p>	<p>Not applicable.</p>

<p>10 Although my DS-2019 (certificate of eligibility) has been revalidated for another 12 months, the J-1 visa stamp in my passport has expired. Am I required to obtain a new visa stamp in my passport to be in compliance with USCIS regulations?</p>	<p>The visa stamp must be valid for entry into the U.S.; however, it is not required to be valid during the entire stay. In the U.S., the controlling document is the I-94 arrival card. In J status, the date of expiration of the DS-2019 form issued by the program sponsor controls the expiration date of the I-94 arrival card. It is your responsibility to insure that your I-94 document and those of your family, if any, are valid at all times.</p>	<p>Not applicable.</p>
<p>11 What must I do to re-enter the U.S. if my J-1 visa stamp has expired but my DS-2019 is still valid?</p>	<p>The U.S. has a two-step system whereby an individual obtains the visa (step 1) and then presents him/herself at the port of entry for admission (step 2). The visa stamp in your passport only needs to be valid for the purpose of entering the U.S, i.e., it must be valid on the date of your return to the U.S.</p> <p>If you have an old passport with a valid J-1 visa stamp, carry both your old and new passports to enter the U.S.</p> <p>If you need to renew/apply for a J-1 visa stamp, plan well in advance as this process may take from several days to many months.</p> <p>NOTE: Canadian citizens do not need a U.S. visa to enter the U.S., as they are visa exempt.</p>	<p>Not applicable.</p>
<p>12 Where can I find out about the standard visa procedures at each U.S. consulate or embassy?</p>	<p>Check the U.S. Department of State's website: http://travel.state.gov.</p>	<p>Check the U.S. Department of State's website: http://travel.state.gov.</p>
<p>13 Is it possible to renew my visa stamp in my passport without leaving the United States?</p>	<p>No. You CANNOT obtain a J-1 visa stamp inside the U.S.</p>	<p>No. You CANNOT obtain a H-1B visa stamp inside the U.S.</p>

<p>14 Should the visa stamp in my passport always remain current?</p>	<p>The visa stamp must be valid for entry into the U.S.; however, it is not required to be valid during your stay.</p> <p>In the U.S., the controlling document is the I-94 arrival card. In J status, the date of expiration of the DS-2019 form issued by the program sponsor controls the expiration date of the I-94 arrival card. It is your responsibility to insure that your I-94 document and those of your family, if any, are valid at all times.</p>	<p>The visa stamp must be current only for the purpose of entering or re-entering the U.S. The visa stamp may expire in your passport without jeopardizing your ability to remain in the U.S.</p> <p>The controlling documents for the H-1B visa are the I-94 and the Notice of Action, which must carry current validity dates.</p>
<p>15 Can the two-year home residency requirement be waived?</p>	<p>Waiver of the two-year home residency requirement depends on how one became subject to the requirement; home country and/or funding agency can influence decision-making.</p>	<p>Not applicable</p>
<p>16 Are there any travel restrictions associated with these types of immigration status?</p>	<p>Check with your sponsoring institution and/or an immigration attorney.</p>	<p>Check with your institution/employer and/or an immigration attorney.</p>
<p>17 What is the cost to secure this immigration status?</p>	<p>Many institutions charge a handling fee (approximately \$200-\$300) to process the DS-2019.</p>	<p>USCIS charges a filing fee of \$820 for the processing of the initial I-129 petition. H1B extensions for same employer are exempt from \$500 of this fee. Additionally, many institutions charge a handling fee to submit the necessary paperwork to USCIS rather than commissioning an attorney to process and submit the documents to USCIS.</p>
<p>18 Who pays for the processing of the petition or immigration document for this status?</p>	<p>The postdoc or the institution.</p>	<p>The employer/institution.</p>
<p>19 Who files the request for the immigration status?</p>	<p>The institution issues the DS-2019.</p>	<p>The employee/institution files the H-1B petition.</p>

<p>20 How long does it take to process a visa application to enter the U.S.?</p>	<p>Plan ahead! The institution can take from two weeks to several months to issue the DS-2019. The U.S. embassy—which actually issues the visa—can take from a few days to many months to complete the process.</p>	<p>Plan ahead! The employer/institution can take from days to weeks to process internal DOL and USCIS paperwork for the petition; USCIS can take up to another six months. to review the petition. The U.S. embassy or consulate can take from days to months to issue the visa stamp.</p>
<p>21 Can the procedure be expedited?</p>	<p>No.</p>	<p>Yes. The petition can be expedited by adding \$1,000 to the initial \$820 filing fee. This \$1,000 is called “premium processing fee”. However, the issuance of the visa stamp cannot be expedited.</p>
<p>22 Who pays for the premium processing fee?”</p>	<p>Not applicable.</p>	<p>The employer/institution or employee.</p>
<p>23 Can I be employed?</p>	<p>Yes.</p>	<p>Yes.</p>
<p>24 Is it possible to change employers while in this visa status? If so, what do I have to?</p>	<p>Your “employer” is the program that issued the DS-2019. You can only work for a different institution if you change your J-1 program sponsor.</p>	<p>While in H-1B status, it is permissible to change employers. However, the new employer must go through the identical process that the first employer followed on your behalf.</p>
<p>25 Do I need USCIS authorization prior to working with the new, proposed employer?</p>	<p>If you were issued a DS-2019 from your new program sponsor, you may work on the start date noted on the DS-2019. However, the institution cannot pay you until the J transfer to the new employer has been completed.</p>	<p>Once your new employer/institution has submitted its application on your behalf, you may commence employment for the new employer/institution. This is called “portability”.</p> <p>SPECIAL NOTE: You should not terminate your position with the first employer/institution until the new employer/institution has submitted its application.</p>

<p>26 Regarding employment, what does the term “employer-specific” mean?</p>	<p>Postdocs generally receive compensation from the specific school or institution that issued the DS-2019. Postdocs may engage in temporary work in another institution only if the work is related to the original program and is short-term and incidental in nature.</p> <p>Please note that the postdoc must receive advance permission from the institution issuing the initial DS-2019.</p>	<p>Postdocs may only work for the H-1B employer in the specific position approved. Postdocs in H-1B status are not eligible for honorariums.</p>
<p>27 Is there a limit to the number of times one can use this status?</p>	<p>No. However, the applicant has to remain off of J status for at least two years prior to the next five-year period.</p>	<p>No. However, the applicant has to remain outside of the U.S. for at least one year before the next six-year period.</p>
<p>28 What are the consequences of letting your immigration status lapse?</p>	<p>Allowing your immigration status to lapse creates a situation where you no longer have legal permission to be present in the U.S. Visits to the U.S. in the future can be prohibited in varying degrees depending on length of unlawful presence. For example, if you are unlawfully present for more than 180 days, you can be prohibited from returning to the U.S. in any visa status for three years.</p>	<p>You must leave the U.S. and reapply for admission in the proper status. Visits to the U.S. in the future will be prohibited in varying degrees depending on length of unlawful presence. For example, if you are unlawfully present for more than 180 days, you are prohibited from returning to the U.S. in any visa status for three years.</p>
<p>29 Can you work while you are waiting for a change in visa category?</p>	<p>Postdocs may continue in F-1 (student visa) status in an optional practical training (OPT) category for up to one year; one should apply at least six months in advance of the OPT expiration date for a change of status to J-1 or H-1B</p> <p>Postdocs in J-1 status who are changing to H-1B status cannot begin work until the H-1B application is approved.</p> <p>While a change in status is pending, one cannot “volunteer” for work where he/she would normally be paid.</p>	<p>A postdoc with an H-1B pending application cannot work until the H-1B application is approved. However, the postdoc can remain in the U.S. if the petition is submitted before the previous status ends.</p> <p>While a change in status is pending, one cannot “volunteer” for work where he/she would normally be paid.</p>
<p>30 What kind of status do I need for family members?</p>	<p>J-2 for legal spouse and unmarried children under 21.</p>	<p>H-4 for legal spouse and unmarried children under 21.</p>

31 Are family members eligible to work on/off campus?	Family members on J-2 visas may apply for an Employment Authorization Document (EAD) Form I-765 from USCIS for all types of employment. However, their earnings cannot substitute for the support of the J-1 visa holder. Cost for the EAD is paid by the postdoc and can be renewed annually.	No.
32 Am I required to report to SEVIS?	The J-1 program sponsor is responsible for reporting you directly into the SEVIS system. Check with your international office immediately upon arrival in the U.S. so that you may report your residential address.	No.
33 If I change my residential address, am I required to report this information? If so, to whom should I report this?	Yes. Report your residential address to the J-1 program sponsor or the institution's international office within 10 days of your move. Scholars subject to "Special Registration" must complete an AR-11 form within 10 days. This form may be downloaded at http://uscis.gov . The form also provides the mailing address. Please note that you must submit a separate form for each family member, including children.	You are responsible for notifying USCIS of any residential address changes within 10 days. The form used to notify USCIS of an address change is the AR-11. This form may be downloaded at http://uscis.gov . The form also provides the mailing address. Please note that you must submit a separate form for each family member, including children.
34 Can family members travel without the postdoc?	Yes. Family may only enter after the J-1 (postdoc) has entered the U.S. Spouse and minor children may subsequently be admitted into the U.S. in J-2 classifications. Each family member has a SEVIS DS-2019 form issued in his/her own name by the postdoc's sponsoring organization. When traveling it is recommended that all family members carry copies of birth and marriage certificates (with translation, if not in English) to more easily demonstrate spouse and children relationships.	Yes. Family may only enter after the H1-B (postdoc) has entered the U.S. Family members will need H-4 visas and verification that the H-1B principal is already in the U.S. working for the approved employer. When traveling it is recommended that all family members carry copies of birth and marriage certificates (with translation, if not in English) to more easily demonstrate spouse and children relationships.
35 Where do you apply for dependent visas?	U.S. consulate (unless Canadian).	U.S. consulate (unless Canadian).

<p>36 If I apply for a visa while in Canada or Mexico, can I re-enter using other visa documents, e.g., evalidated USCIS documents?</p>	<p>No. All persons who travel from the U.S. to Canada, Mexico or contiguous island territories and who apply for a J-1 visa during the visit are NOT eligible for re-entry to the U.S. until the visa has been granted and stamped into the passport.</p>	<p>No. All persons who travel from the U.S. to Canada, Mexico or contiguous island territories and who apply for a H-1B visa during the visit are NOT eligible for re-entry to the U.S. until the visa has been granted and stamped into the passport.</p>
<p>37 I would like to travel to Canada or Mexico. My passport has an expired visa stamp but my other USCIS documents have been revalidated and will be current when traveling. Can I re-enter the United States without getting a new visa stamp in my passport?</p>	<p>If you travel to Canada, Mexico or other contiguous island territories for less than 30 days, it is not necessary to re-enter with a valid J-1 visa if the following conditions are met:</p> <ol style="list-style-type: none"> 1) you re-enter with a valid I-94 card; 2) your passport is valid for at least six months from date of re-entry; 3) you possess your original DS-2019 that has been properly endorsed for travel and re-entry within the past ten months; and, 4) you do not apply for the visa at the U.S. consulate. <p>NOTE: If you are flying to Canada or Mexico, make sure that the airline does not take your I-94 upon your departure. Provide the airline with a photocopy of your I-94.</p>	<p>If you travel to Canada, Mexico or other contiguous island territories for less than 30 days, it is not necessary to re-enter with a valid H-1B visa if the following conditions are met:</p> <ol style="list-style-type: none"> 1) you re-enter with a valid I-94 card; 2) your passport is valid for at least six months from date of re-entry; 3) you possess your Notice of Approval; and, 4) you do not apply for the visa at the U.S. consulate. <p>For appropriate travel documents and instructions, contact your employer's/institution's international office.</p> <p>NOTE: If you are flying to Canada or Mexico, make sure that the airline does not take your I-94 upon your departure. Provide the airline with a photocopy of your I-94.</p>
<p>38 How long can I stay in Canada or Mexico with an expired visa stamp but revalidated USCIS documents?</p>	<p>Up to 30 days.</p>	<p>Up to 30 days.</p>
<p>39 What other documentation should I take to Canada or Mexico so that there will be no problem when I re-enter the U.S.?</p>	<p>You are strongly advised to carry recent evidence of financial support for the total duration of your stay in the U.S.</p>	<p>You are strongly advised to carry a letter from your employer/institution confirming your employment, job title and salary as well as your original H-1B Notice of Approval.</p>

40 What do I need to travel to Canada?	A tourist visa from the Canadian consulate is required for citizens from certain countries. To determine if you need a tourist visa and the instructions to get it, go to http://www.cic.gc.ca/english/visit/visas.html .	A tourist visa from the Canadian consulate is required for citizens from certain countries. To determine if you need a tourist visa and the instructions to get it, go to http://www.cic.gc.ca/english/visit/visas.html .
41 What is the cost of dependent visas?	Depends on the applicant's citizenship.	Depends on the applicant's citizenship.
42 If a postdoc changes immigration status, how does it affect family members?	All J-2 dependents will need to apply for a change of immigration status; e.g., if the J-1 visa holder changes to H-1B, the J-1 dependents will have to apply for H-4 visas.	All H-4 dependents will need to apply for the appropriate visa status reflecting the new visa category of the former H-1B visa holder.
43 Are visa holders subject to federal taxes?	Depends on tax treaty between home country and U.S. governments. Most J-1 visa holders are considered residents of the U.S. for tax purposes if they meet the substantial presence test.	Depends on tax treaty between home country and U.S. governments. Most H-1B visa holders are required to pay federal income, Social Security and Medicare taxes.
44 What do I need in order to travel to Mexico?	A Mexican tourist card or visa, which can be obtained at a Mexican consulate in the U.S., may be required for persons visiting Mexico. A list of Mexican consulates in the U.S. is available at http://mexonline.com/consulate.htm .	A Mexican tourist card or visa, which can be obtained at a Mexican consulate in the U.S., may be required for persons visiting Mexico. A list of Mexican consulates in the U.S. is available at http://mexonline.com/consulate.htm .

FOR CANADIAN AND MEXICAN CITIZENS

<p>45 What is a TN visa?</p>	<p>The TN (Trade NAFTA, Trade North American Free Trade Agreement) status is issued to Canadian and Mexican citizens who will be employed in a profession that is listed on the U.S., Canada or Mexico Free Trade Agreements. While Mexican citizens must first apply at a U.S. consulate for a TN visa stamp, Canadian citizens are visa exempt and need only present themselves at the U.S. port of entry. This status is granted in one-year increments. The application fee is \$50. Spouses and children of TN visa holders are granted TD visa status. The TD status prohibits employment.</p>
<p>46 If qualified for both TN and J-1 visas, which is the preferred visa for a postdoc?</p>	<p>Institutions make the decision about whether or not the TN is appropriate for employment. A postdoc who wishes to avoid the two-year home residency requirement must determine if accepting the J-1 visa will subject him/her to this onerous requirement.</p> <p>If a postdoc wishes not to be subject to the two-year home residency requirement as required on the J-1 visa, it is advised that the postdoc enter the U.S. with a TN visa instead. Consult with your institution's international office prior to entering the U.S.</p>
<p>47 Is the process for obtaining a TN visa different for Canadian and Mexican citizens?</p>	<p>While Mexican citizens must first apply at a U.S. consulate for a TN visa stamp, Canadian citizens are visa exempt and need only present themselves at the U.S. port of entry for adjudication of the TN application.</p>

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