Human Resources

Home
About HR
Staff
Directions & Maps
News & Events
Policies
Contact Information
Employment
Current Employees
Dual Career Information
Applying for a Job
Employment Policies
Foreign Nationals
The WHOI Environment
Benefits
Open Enrollment
Health & Wellness
Retirement
Time Off
Work & Life
Benefits Policies
Changing/Viewing Your Benefits
FAQs
Compensation
Compensation Services
Compensation Policies
Promotion & Advancement
Pay Dates
Employee Resources
All Employees
New Employees
Supervisors
Foreign Nationals
Forms
Benefits
Employment Action
Performance Evaluations
Foreign Nationals
Miscellaneous
Human Resources Internal Forms
Guest Investigator Appoinment Check-in

News & Events

CPB Reminds U.S. Bound Travelers from Visa Waiver Countries to Complete On-line Travel Authorization

U.S. Customs and Border Protection (CBP) reminds visitors from Visa Waiver Program (VWP) countries to obtain travel authorization through the Electronic System for Travel Authorization (ESTA) prior to travel to the U.S.

The ESTA is an electronic system that all citizens of Visa Waiver Program (countries must use to obtain travel authorization prior to travel to the U.S. by air or sea. Once approved, travel authorization is generally valid for up to two years or until the applicant's passport expires. The Department of Homeland Security recommends that ESTA applications be submitted as soon as an applicant begins to make travel plans.

CPB warns that VWP travelers without an approved ESTA may not be allowed to board a U.S. bound air carrier after the 60-day transition period initiated on January 20, 2010.
ESTA applications may be completed online, free of charge at: https://esta.cbp.dhs.gov/

Department of State Proposal for Fee Increases for Nonimmigrant Visa Application Fees

The Department of State has proposed increasing visa application fees to “ensure sufficient resources to cover the increasing cost of processing nonimmigrant visas.” U.S. law required the DOS to recover the cost of processing nonimmigrant visas through the collection of application fees.

Applicants for all non-petition based visas would pay a fee of $140. This includes B1/B2 business and tourist visas, all student and exchange visitor visas.

Applicants for petition-based visas would pay an application fee of $150. This includes the H (temporary employment and trainee), L (intracompany transferees), O (aliens with extraordinary ability), P (athletes, artists and entertainers), Q (international cultural exchange visitors), and R (religious occupations) visa categories. The K visa for fiancé (e)s of U.S.citizens would be $350 and the fee for E visas for treaty-traders and treaty-investors would be $390.

Collection of the new fees will not begin until DOS has considered all public comments and publishes the final rule in the Federal Register. For further details or to comment on the proposed rule visit: http://www.regulations.gov.

USCIS Announces New Mailing Address for All I-765 Applications

USCIS announced a change in the mailing address locations for all I-765 applications. This includes F-1 Optional Practical Training, STEM OPT Extensions, Employment with an International Organization and J-2 employment authorization.

Please read the full announcement at http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3ca0808dfb1072 for links to the new Form I-765 application form and a chart of “Direct Filing Addresses for Form I-765, Application for Employment Authorization”.

January 2007

Passports

Effective January 23, 2007, all persons including citizens of the United States, are required to present a passport, or other accepted secure document that establishes the bearer's identity and nationality, to enter the United States when arriving by air from Canada, Mexico, Central and South America, the Caribbean, and Bermuda. It is anticipated that this requirement will extend to all land and sea border crossings effective January 1, 2008.

November 27, 2006

J-1 Program Change

The Department of State recently published a rule regarding key changes to the Exchange Visitor Program, which will impact J-1 visa holders in the Research Scholar category. The effective date of this rule was November 4, 2006.

I expect that these changes will have a significant impact on our program that will require the sponsoring departments and foreign nationals to carefully plan visits and appointments. Please review the changes as I have outlined them below and let me know if you have any questions.

The major changes include:

5 Year Rule:

- The maximum period of participation for a J Research Scholar has increased from three years to five years. The five year period is not cumulative; it is a continuous five-year period. The five year period of participation begins on the program start date on the form DS-2019. Exchange Visitors classified as a Research Scholar may now extend up to a total of five years. The Form DS-2019's will only be issued for the specific length of time and determined by the funding amount that is requested by the sponsoring department.
- Health Insurance:
  - Health insurance coverage remains mandatory for J-1 exchange visitors and their J-2 dependents during their entire stay in the U.S. in J status.

2-Year Bar:

A new 24 month (two-year) bar on repeat participation is instituted for Research Scholars who complete their program participation.

Once an exchange visitor enters the U.S. in J-1 status as a Research Scholar, the 5-year “window” opens. And when the program ends, whether only 3 weeks or 3 years later, the exchange visitor becomes subject to a 2-year bar on repeat participation as a Research Scholar.

The 2-year bar is not the same as the 212(e) 2-year home residency requirement (see below).

The 2-year bar means that the exchange visitor will not be able to start a new Research Scholar program until 2 years have passed from the completion date of the previous program. Those 2 years may be spent in the U.S. in another J category (e.g., Short-Term Scholar) or in another immigration status (e.g., H-1B), if possible.

The new two-year bar will only apply to those who complete their program on or after implementation of the new rule. The existing one-year bar will continue to apply to exchange visitors who completed their program prior to implementation of the new rule.

Short Program Duration = Short-Term Scholar Category:

Exchange Visitors whose programs are scheduled to last 6 months or less, are issued DS-2019 forms for the Short-Term Scholar category. An exchange visitor in this J category does not become subject to the 2-year bar.

The Short-Term Scholar category allows a maximum stay of 6 months and cannot be extended beyond the 6 months. If the researcher needs to stay longer to complete the research project, travel abroad and re-entry to the U.S. with a new DS-2019 is possible. This new DS-2019 may either be issued for another Short-Term Scholar program or for the Research Scholar category if it is determined that the program will last more than an additional 6 months.

With a new DS-2019 form, a new SEVIS fee must be paid. A new J-1 visa application must also be made at a U.S. consulate abroad; unless the exchange visitor chooses to travel to Canada or Mexico to cross the border without a new J visa application (this is known as Automatic Visa Revalidation and is permitted for trips to Canada or Mexico of less than 30 days' duration).

212(e) 2-Year Home Country Residency Requirement:

The 212(e) 2-year home country residency requirement remains in effect for those exchange visitors who are subject to this section of the law based on either their research area or direct government funding for international exchange purposes.

Persons subject to the 212(e) 2-year home country residency requirement are not eligible to change their immigration status in the U.S. and cannot obtain H-1B or permanent residency status until the requirement has been met or waived.

Those who are subject to 212(e) based on their research area may be able to obtain a waiver of the requirement from the State Department in conjunction with their home country government.

Those subject based on government funding have very limited waiver options.

Please do not hesitate to contact me for any clarification, fna@whoi.edu ext. 2704.
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