Basics of Immigration in the Postdoc World

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Overview

Basics of Current Status
Change of Status Options
212(e) and Waivers
Employer Changes
Permanent Residency
## Basics of Current Immigration Status

### F-1 OPT/STEM
- Optional Practical Training (OPT) is 12 months.
- STEM OPT is an additional two years.
- If eligible for STEM, a good use to maximize time in the U.S.

### J-1
- Extensions are possible (cannot exceed the 5-year maximum for those that are in the Research Scholar category)
- Two-Year home residency also known as 212(e)
- 12- and 24-month bars for specific Exchange Visitor categories

### H-1B
- Employment is tied to employer and position.
- Extensions may be possible. Maximum allowance is to up six years of total H-1B time. There are limited exceptions to permit allowance to go beyond the six-year duration.
Change of Status Options

- F-1 OPT/STEM
- J-1
- H-1B

- F-1 OPT/STEM
- H-1B

- J-1
- H-1B
Basics of 212(e), Two-Year Home Residency Requirement – Applies only to Exchange Visitors

How to Determine

1. Is funded by either your home country’s government or the U.S. government; or
2. Involves specialized knowledge or skills deemed necessary by your home country; or
3. Involves receiving graduate medical education or training.

Subject to 212(e)?

- Not eligible for H-1b visa
- Not eligible to change their nonimmigrant status within the U.S.
- Not eligible for an immigrant visa or for adjustment of status to lawful permanent resident

Ways to Fulfill the 212(e)

- Must return to home country for two years.
- Obtain a waiver
Waiver Options

An Exchange Visitor may request that the two-year home residence requirement be waived only on the following bases:

- No objection statement: Statement from the Exchange Visitor’s home country that it has no objection to the waiver
- Request for waiver made by an interested U.S. government agency
- Fear of persecution on account of race, religion, or political opinion
- Exceptional hardship to the US citizen or permanent resident spouse or child of the Exchange Visitor
- Interest of a state agency (only for alien physicians)
Changing Employers – External (Outside UTHSA)

**F-1 OPT/STEM**
- Update SEVP Portal
- If applicable for those on STEM, update I-983 and provide evaluations to OIS

**J-1**
- Initiate Transfer Out request with OIS, recommend 30 days in advance of transfer date
- Continue with program objective

**H-1B**
- Future employer will file petition with USCIS. The transfer will be effective once the petition is receipted by USCIS and based off the effective date on the petition.
Changing within UTHSA - Internal

**F-1 OPT/STEM**
- Update SEVP Portal
- If applicable for those on STEM, update I-983 and provide evaluations to OIS

**J-1**
- Hosting unit will initiate an amendment request with OIS, recommend 30 days in advance of transfer date
- Continue with program objective

**H-1B**
- Hiring unit will request amendment and OIS will file petition with USCIS. The transfer will be effective once the petition is receipted by USCIS and based off the effective date on the petition.
Permanent Residency

• There are multiple pathways to lawful permanent residence, which may be based on employment, a family relationship, refugee or asylum status, or other special provisions.

• Invest in yourself!
  • Attend a Pathways to Permanent Residency presentation when offered by OIS
  • Consult with a qualified immigration attorney
    • American Immigration Lawyers Association
    • Questions to consider when hiring an immigration attorney for your personal immigration needs on OIS website.

• 15.1.2 Employment-Based Permanent Residency Sponsorship HOP Policy at UTHSA
Questions?

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