

# OFFICE OF INTERNATIONAL STUDENTS & SCHOLARS

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## Green Card & Visa: Frequently Asked Questions

### 1) What are the Nonimmigrant Categories that can permit work at UCSB?

#### **F-1: Student Category/ F-1 O.P.T.**

- 12 months of post-degree employment authorization related to field of study
- To be filed at least 90 days prior to graduate date with United States Citizenship and Immigration Services (USCIS)
- Must wait for approved EAD card before beginning employment
- Allows for change of employer within F-1 O.P.T. validity period

#### **J-1: Exchange Visitor Category**

UCSB uses only the following academic-related J-1 categories:

- J-1 may be used for Employment Authorization as long as position is academic-related
  - **Research Scholar/Professor** – Duration of 5 years maximum
  - **Short-Term Scholar** – Duration of 6 months maximum
- **Academic Training** – 12 months of Employment Authorization post-completion of degree program(36 months for postdoctoral position)
- Allows for transfer of J-1 employer as long as employment is related to Subject field listed on the DS-2019 form
  
- ❖ J-1 Exchange Visitors may be subjected to the J-1 212(E) Two Year Home Residency Ruling
- ❖ J-1 Research Scholar/Professor category is subjected to the 24 month bar after program end date

#### **H-1B: Specialty Occupation**

- Requires Bachelor's degree minimum
- Employer specific, can hold additional employment as long as additional petitions are filed and approved
- Employment granted based on terms and conditions filed with USCIS
- 6 year maximum can be reset by residing outside of the United States for 1 year

### 2) Extension of Nonimmigrant Category: what are the requirements and durations?

F-1 O.P.T. - May be extended to additional 17 months if employment meets the following:

- Field of Study is in the STEM category (Science, Technology, Mathematics and Engineering)
- Subject Field Code does not end in 99
- Employer is enrolled in E-Verify (**UCSB is not enrolled w/ E-Verify**)

#### **J-1: Research Scholar/Professor**

- 5 year maximum period\*
- Extension filed with OISS
- Submit J-1 Extension Request Letter w/ department authorization memo to OISS prior to program end date

#### **Academic Training**

- Academic Training issued by UCSB may be extended up to 36 months of in Postdoctoral Position\*
- Academic Training should be filed with current J-1 Program Sponsor if Degree was not completed at UCSB
- \* Extension of the J-1 Nonimmigrant Status is not permitted **after** the approved waiver for the J-1 212(E) Two Year Home Residency Requirement.

H-1B: 6 year maximum period

- Extensions filed with USCIS prior to current H-1B end date
- Cannot file for more than 3 years per petition request

TN: 12 months, renewable every 12 months

- Extensions may be filed with USCIS if inside the United States
- Can be renewed by departing and re-entering the United States at the Port of Entry

### 3) **How can I change my Nonimmigrant Status inside the United States?**

A petition to change your Nonimmigrant Status may be filed inside the United States with USCIS. It is recommended to file the change of status petition prior to your current status end date to avoid a loss of employment authorization.

Applicants may not travel while a Change of Status Petition is pending. Traveling while a petition is pending is considered abandonment of petition. USCIS will return the rejected petition.

Petitions may be obtained at [www.USCIS.gov](http://www.USCIS.gov) under “Immigration Forms.”

\*J-1 Exchange Visitors who are subjected to the J-1 212(E) Two Year Home Residency may not change their status **inside** the United States until favorable ruling has been made or a waiver is approved.

### 4) **J-1 Waiver: How long does it take to get waiver?**

The J-1 212(E) Two Year Home Residency Requirement or the “Two Year Rule” restricts a J-1 Exchange Visitor, if applicable, to the following:

- Cannot apply for U.S. Permanent Residency
- Cannot apply for change of status **inside** the U.S. to another nonimmigrant category
- Cannot apply for H, K, or L category

The Two Year rule is satisfied by either returning to the J-1 Exchange Visitor’s home country for an aggregate of 2 years or by a waiver, approved by both the U.S. Department of State and United States Citizenship and Immigration Services.

The individual subject to the requirement applies for the waiver. OISS will assist in providing information about the waiver requirement.

For more information regarding the J-1 212(E) Two Year Home Residency Requirement, please visit the U.S. Department of State’s website at: [http://travel.state.gov/visa/temp/info/info\\_1296.html](http://travel.state.gov/visa/temp/info/info_1296.html)

Waiver processing times vary.

### 5) **If I receive an extension of my Nonimmigrant status, do we need to depart from the United States to get the new visa, or can we just work with the new employment permission? What if I have to travel to a conference in another country, can I re-enter the United States or do I need to apply for a new visa from an American Embassy abroad?**

An extension of your Nonimmigrant Status permits you to extend your stay and work authorization inside the United States. It does not extend your Travel Visa.

If your Nonimmigrant Status has been extended but the Travel Visa has expired, you will be required to apply for a renewal of the Travel Visa at a U.S. Consulate abroad, based on the extension of your Nonimmigrant Status.

**6) Travel Visa renewal: How long does it take for visa renewal?**

Travel Visas, located inside the passport may only be renewed outside of the United States. Travel Visas can only be renewed if the validity period has expired prior to the visa interview date. The Travel Visa only allows permission to enter the United States based on the pre-approved Nonimmigrant category which is reviewed at the U.S. Consulate Abroad.

Visa appointment and issuance times vary so please check with the U.S. Consulate to plan ahead. You may check the current visa wait times at: [http://travel.state.gov/visa/temp/wait/tempvisitors\\_wait.php](http://travel.state.gov/visa/temp/wait/tempvisitors_wait.php)

Be sure to plan ahead and allow additional wait time in case of a visa issuance delay.

**7) When my passport expires, but the visa and Nonimmigrant form (ex.: I-20, DS-2019) is still valid, can I stay in the country, and is this legal?**

It is illegal to remain in the United States with an expired passport. A passport must be valid for a minimum period of 6 months. If your passport is due to expire, contact your Country's Embassy for the procedure to renew your passport.

You may remain inside the United States if a passport renewal application has been submitted and pending.

**8) If I get a new passport and the travel visa is still valid in the old passport, do I need to transfer the visa to the new passport?**

No, you may travel with both the new passport and old passport with the current travel visa stamp.

You will not be required to transfer the travel visa between passports.

**9) What is the I-94 card? What happens if I lose my I-94 card, or if I do not turn it in when I leave the United States?**

The I-94 card is a document provided prior to entering the United States. This card is proof of your legal entry/departure and permission of stay inside the United States.

If you lose the I-94 card, you will need to file the I-102 form with USCIS to obtain a replacement card. You will not be able to travel during this process.

If the I-94 is not turned in at the time you depart the United States, you will not have a valid departure record. This might cause possible delays upon re-entry to the United States.

Please visit the U.S. Department of States' website for I-94 card related questions at: [http://travel.state.gov/visa/questions/questions\\_1253.html#I94](http://travel.state.gov/visa/questions/questions_1253.html#I94)

**10) If I change my title of employment before my current nonimmigrant status expires, do I need to update my status? What do I need to do?**

The J-1 Exchange Visitor category is very flexible with regard to change of employment within UCSB. Amendments to the J-1 DS-2019m form are not necessary as long as the position is related to the field of study listed on the form DS-2019.

For H-1B Employment, an amendment petition must be filed with USCIS before a change of employment can begin. If filed in a timely manner, you may begin the new position with evidence of the H-1B Receipt Notice.

**11) Is the same Nonimmigrant Status transferable between different universities if I have to change employment before the expiry date of the status?**

Yes, as long as you have time remaining on your current status. There are some restrictions for the J-1 Transfer. Please check with OISS before requesting a transfer of your J-1 Status.

**12) I have heard that it may be possible to remain in the United States after I complete my employment (after the program end date of my immigration documents). Is this true for all nonimmigrant categories?**

Immigration allows a “grace period” or extended stay in the United States after the program end date for only F-1 and J-1 Nonimmigrant categories. The grace period allows permission to stay **inside** the United States for additional time for leisure activities, and/or to prepare for final departure. You may not leave and return to the United States during this grace period as your Nonimmigrant Status has expired.

The Grace Periods for the F-1 and J-1 Nonimmigrant Status are:

- F-1/O.P.T. – 60 Days
- J-1 – 30 Days

There are no grace periods for the H-1B and TN category. The individual is required to depart the United States the same day as the end date of the H-1B/TN permission or the last day of employment, whichever comes first.

**13) If I use the maximum duration period my Nonimmigrant status, can I still obtain another visa with another institute/university, or should I leave the country?**

You will be required to depart the United States before applying for a new status, with the exception of changing from J-1 to H-1B. In this case, you may use the maximum duration of the J-1 status before applying for H-1B.

You may transfer your J-1 or H-1B status to another J-1 Program Sponsor or H-1B Employer is allowed only if there is time remaining for your current status.

New 6 year H-1B period may be reset upon returning to your Home Country for 1 year.

Please check with OISS regarding the restrictions for J-1 categories.