

STATE DEPARTMENT PROCEDURES

On October 1, 1999, the United States Information Agency (USIA) was integrated into the US Department of State. The Waiver Review Division of the Office of Legislation, Regulation, Regulation and Advisory Assistance in the Visa Office of the Bureau of Consular Affairs (formerly the USIA Waiver Review Branch of the Office of the General Counsel) reviews applications and makes recommendations to the Immigration and Naturalization Service concerning Section 212(e) waivers.

The merger of the Waiver Review Branch into the Visa Office has not been as smooth a process as anticipated. There have been setbacks in the integration of the USIA database into the one used in the Visa Office and with the merger of the automatic status inquiry telephone system.

Following is an instruction sheet detailing the new, simplified, four-step process for applying for a waiver recommendation review. There are two significant changes:

1. As of March 31, 2000, all requests for waiver review, regardless of the basis upon which the waiver is requested, may be only initiated by submitting a completed Data Sheet, the \$230.00 user fee payment, and two self-addressed stamped envelopes.
2. The address to which these items must be sent will change to:

If via **Postal Service**

US Department of State/Waiver
Waiver Review Division
P.O. Box 952137
St. Louis, MO 63195-2137

If via **Courier Service**

US Department of State
Waiver Review Division (Box 952137)
1005 Convention Plaza
St. Louis, MO 63101-1200

If you have questions regarding waiver review procedures, please refer to one of the following sources of information:

Consular Affairs website:	http://travel.state.gov
Visa Services:	http://travel.state.gov/visa_services.html
INS	http://www.ins.usdoj.gov
INS forms line:	1-800-870-3676
Waiver inquiries email:	http://usvisa@state.gov
General Public Inquiries	202-663-1225

INSTRUCTIONS FOR APPLYING FOR A WAIVER OF THE TWO-YEAR FOREIGN RESIDENCE REQUIREMENT PERTAINING TO THE EXCHANGE VISITORS ON THE J-1 VISA

Exchange Visitors may be subject to the two-year foreign residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended, for one or more of the following reasons:

1. They received funding from the United States Government, their own government, or an international organization in connection with their participation in the Exchange Visitor Program;
2. The education training, or skill that they are pursuing in this country appears on the Exchange Visitor Skills List for their country;
3. They acquired J-1 status on or after January 10, 1977 for the purpose of receiving graduate medical education or training

Education visitors who are subject to, but do not wish to comply with, the two-year home country residence requirement may apply for a waiver of that requirement under any one of five applicable grounds provided by United States immigration law.

STATE DEPARTMENT PROCEDURES

BASIS FOR WAIVER RECOMMENDATION

1. **“No Objection” Statement**

The exchange visitor’s government, must state that they have no objection to the exchange visitor not returning to the home country to satisfy the two-year foreign residence requirement of Section 213(e) of the Immigration and Nationality Act, as amended, and remaining in the U.S. if he or she chooses to do so.

2. **Request by an Interested United States Government Agency**

If the exchange visitor is working on a project for or of interest to a U.S. Federal Government Agency and that agency has determined that the visitor’s continued stay in the United States is vital to one of its programs, a waiver may be granted if the exchange visitor’s continued stay in the United States is in the public interest.

NOTE: For applications on behalf of foreign physicians, who agree to serve in medically underserved areas, please refer to Federal Register volume 62, No. 102 of May 1997.

3. **Persecution**

If the exchange visitor believes that he or she will be persecuted upon return to the home country due to race, religion, or political opinion, he or she can apply for a waiver.

4. **Exceptional Hardship to a United States Citizen or Legal Permanent Resident Spouse or Child of an Exchange Visitor**

If the exchange visitor can demonstrate that his or her departure from the United States would cause extreme hardship to his or her United States citizen or lawful permanent resident spouse or child, he or she may apply for a waiver. (Please note that mere separation from family is not considered to be sufficient to establish exceptional hardship.)

5. **Request by a Designated State Health Department or Its Equivalent**

Pursuant to the requirements of Public Law 103-416, of October 25, 1994, foreign medical graduates who have an offer of full-time employment at a health facility in a designated health professional shortage area, and agrees to begin employment at such facility within 90 days of receiving such waiver and signs a contract to continue to work at the health care facility for a total of 40 hours per week and not less than three years, may obtain a waiver.

STATE DEPARTMENT PROCEDURES

PROCEDURES FOR WAIVER APPLICATIONS

There are four steps to processing a waiver review application.

STEP 1. To apply for a recommendation for a waiver of the two-year home residence requirement under any of the above bases, applicants must complete a Data Sheet (available via the Internet at <http://travel.state.gov/jvw> or directly at <http://travel.state.gov/DS-3035.pdf>) and send the completed Data Sheet, and **two** self-addressed, stamped, legal-size envelopes (S.A.S.E.) and a check or money order for \$230.00 U.S. dollars per application, payable to the U.S. Department of State to:

If via **Postal Service**

US Department of State
Waiver Review Division
P.O. Box 952137
St. Louis, MO 63195-2137

If via **Courier Service**

US Department of State
Waiver Review Division (Box 952137)
1005 Convention Plaza
St. Louis, MO 63101-1200

PLEASE NOTE:

- Please write on the check or money order the applicant's full name, date of birth and Social Security Number, if any.
- Remittances must be drawn on a bank or other institution located in the U.S. and made payable in U.S. currency to the U.S. Department of State.
- If the applicant resides outside the United States at the time of application, remittance may be made by bank international money order or foreign draft drawn on an institution in the U.S. and made payable to the U.S. Department of State in U.S. currency.

STEP 2. Once the Waiver Review Division has received your Data Sheet, they will use your self-addressed, stamped, legal-size envelope to send you a case number and instruction sheet on how to proceed with your application under the basis you designated on your Data Sheet. This information will include a list of documents that you must submit to complete your waiver review application. After you have received your case number, you must write the full case number on any documentation you submit as well as on the outside envelope of all future correspondence with this office. If you do not write the case number on all correspondence and on the outside of the envelope, the documents you submit will be returned to you.

STEP 3. It is your responsibility to submit all requested documents and required letters sent on your behalf. Once we have sent you the checklist of items necessary to complete the review of your application (Step 2 above), the Waiver Review Office will NOT follow up on documents that have not been received. You may check on the status of your application ONLY by telephoning (202) 633-1600. You must have your full case number in order to obtain the status of your case through this telephone number.

We recommend that you submit all requested documents at the same time. Some letters (such as a "No Objection" statement from your government) must be submitted directly to the Waiver Review Division by the Embassy. In that case, you, as the applicant must request that the Embassy write your full case number on the "no Objection" statement and also on the outside of the envelope to be sent to the Waiver Review Division. You may, if the third party agrees, have all of your documents forwarded to the Waiver Review Division through the third party. Please note, however, that ALL documents sent to the Waiver Review Division must have your file number clearly visible on it, and on the outside of the envelope or they will be returned to you.

STEP 4. At the conclusion of the review process, the Waiver Review Division will forward its recommendation directly to the Immigration and Naturalization Service and you will receive a copy of that recommendation at the address listed on your data sheet. If your application is denied, you will be notified directly.