

Two-Year Home Residency Requirement (212e) for J-1 Exchange Visitors (Scholars and Students)

What is 212(e)?

Some Exchange Visitors (EVs) are subject to a **two-year home residency requirement, also known as 212(e)**, that requires them to return to and reside in their home country of legal permanent residence for a period of two years (cumulative) before being eligible to return to the U.S. as a Permanent Resident, or on an H-1B, K, or L visa. The 212(e) rule also prevents anyone subject to 212(e) from changing their immigration status from within the U.S., unless they first obtain a waiver.

Note: This requirement does not prohibit an EV from returning to the U.S. in another J-1 visa category or other non-immigrant status. For example, returning as a B-2 tourist or an F-1 student without first fulfilling the 212(e), would be permissible as it only impacts a return to the U.S. or a change of status to a U.S. Permanent Resident, or an H-1b, K, or L visa.

General Guidelines Regarding 212(e):

- **Who is Subject to the Requirement**

EVs and their dependents who meet at least one of the listed conditions below are subject to this rule:

- **Government Funding** – You receive funding directly or indirectly from your home country's government or the U.S. Government. If you are funded through the University of Utah, this may count as government funding in some situations. Fulbright funding is also considered U.S. government funding.
- **Funding from an International Organization or Binational Commission** – You receive funding from organizations that receive their funding from government sources such as, United Nations, NATO, or the European Community.
- **Specialized Knowledge or Skill** – You have a skill that your country has deemed necessary to the country's development as shown on the [Exchange Visitor Skills List](#).
- **Graduate Medical Education (GME) or Training** – You have come to the U.S. to obtain medical education or training.

Note: It is possible to be subject to the 212(e) in more than one of the above categories.

- **J-2 Dependents**

- Dependents of an EV who are subject to the 212(e) requirement are also subject to this requirement.
- J-2 dependents must rely on the J-1 EV to apply for a waiver of the 212(e) requirement; dependents cannot apply for the waiver separately from the J-1.

- **How to Know if You Are Subject**

- The visa stamp in your passport and/or your DS-2019 may indicate whether or not you are subject to the 212(e) requirement.
- It is possible to be subject to the 212(e) even if it is not marked on your visa and/or DS-2019 or for the information on your DS-2019 or visa stamp to be inaccurate. Therefore, if you have questions about whether you are subject, you may submit a request for an [Advisory Opinion](#) to the U.S. Department of State.

- **Fulfilling the 212(e) Requirement**

You may fulfill the requirement one of two ways:

- Return to your home country of legal permanent residence for a cumulative period of at least two years.
- Obtain a [212\(e\) Waiver](#).

- **Applying for a 212(e) Waiver**

- Please consult the [U.S. Department of State](#) website for more information about filing a waiver.
- As the waiver process can vary depending on your country of legal permanent residence and is quite complex, ISSS cannot advise on this matter. Therefore, we would recommend you seek the advice of an immigration attorney.

- **212(e) Waiver Approval/Denial Impacts**

- After the Department of State has issued a favorable waiver recommendation, or after USCIS approves a 212(e) waiver, you are no longer eligible for an extension of your program, even if you have not met the maximum time limit of your J-1 category. You can complete the time remaining on your current DS-2019, but cannot extend.
- Changes to your program after the waiver approval could re-subject you to the 212(e) since USCIS made their determination based on the evidence provided at the time of adjudication.
- A waiver approval could result in a denial of your visa renewal as it appears to conflict with your non-immigrant intent.
- If USCIS denies you 212(e) waiver application, there is no process for an appeal. You must either fulfill the 212(e) requirement or apply for a waiver recommendation on a different basis, if eligible.

Frequently Asked Questions:

If I am subject to the 212(e)...

1. Am I allowed to leave my home country during my two-year home residency?

Yes. You do not have to spend two *uninterrupted* years in your home country, and you are allowed to travel. However, leaving your home country only postpones the requirement; it does not eliminate it.

2. Can I change my status from J-1 to F-1 while in the U.S.?

No. If you are subject to the 212(e), you are not eligible to change your status to any other non-immigrant visa type (such as F-1) while in the U.S.

3. Can I leave and come back to the U.S. on another J-1 visa, or on an F-1 visa?

Yes, you can leave the US and return on another non-immigrant visa type (such as J-1 or F-1). However, this does not eliminate the 212(e) requirement – you must fulfill this requirement upon completion of your program.

Please remember that approval for a new visa is never guaranteed, and as a result, we suggest making travel arrangements only after your visa is approved.

4. Is my J-2 dependent also subject to the 212(e)?

Yes. J-2 (dependent) status is directly related to the status of the J-1 principal. If the J-1 is subject to 212(e), then the J-2 is also subject.

5. Am I eligible to apply for a 212(e) Waiver?

There are five different bases in which you can request a waiver from the 212(e) requirement. Please review the [Waiver Eligibility Criteria](#) for more information.

As a reminder, the waiver process can vary depending on your country of legal permanent residence and is quite complex. Therefore, ISSS cannot advise on this matter and we recommend you seek the advice of an immigration attorney should you want to apply.