

J-1 Professor, Research Scholar and Student

Two Year Home Country Physical Presence Requirement (a.k.a. 2 year rule)

The statute requires visitors who are subject to the 2 year rule to return to their "home" countries and be physically present there for an total of two years before being eligible to return to the United States in immigrant (permanent residence/green card) status, H status (temporary workers and dependents), or L status (intra-company transferees and dependents).

Not all exchange visitors are subject to the two-year rule. There are three grounds on which an exchange visitor can become subject:

- If the exchange visitor is financed by the U.S. government or a foreign government for the purpose of coming to the U.S. on the J-1.
- If the skill(s) that the visitor is coming to develop or work with are in a field that the visitor's government requested to be included on the State Department's skills list.
- The visitor is coming to the United States to receive "graduate medical education or training." Only medical doctors are subject in this case.

Waiver of the Two year Rule

An exchange visitor may request that the 2-year home country physical presence requirement be waived only on the following bases:

- Statement of "no objection" from home country.
- Request for waiver made by interested U.S. government agency.
- Interest of a state agency.
- Exceptional hardship to the U.S. citizen or permanent resident spouse or child of the exchange visitor.

For more information on how to apply for a waiver, go to the [Department of State](#).

Consular officers are unlikely to inform applicants "up front" if they decide the Two-Year rule applies at the time the Visitor applies for his or her entry visa. Prospective Visitors can count on being liable under the rule if the DS-2019 issued shows funding in the section next to travel validation, or if the Visitor's profession/country of citizenship match the "[Skills List](#)."

The Skills List compiles various disciplines according to certain countries. If a Visitor's country is not on the Skills List, he or she cannot be subject to the Two-Year Requirement on that basis, but may still be liable through government funding. If a Visitor's country is on the List, look at the disciplines under the country's heading. It may be necessary to refer to the first part of the List if the reference is to "All fields listed in part X." If the Visitor's discipline is listed, or the reference includes the general area of study ("Natural Sciences," for example), the Two-Year rule will apply.

Sometimes applicants find they have been made subject for reasons they cannot discern. The consul makes a decision about whether an applicant should be subject based on all the information he or she

has. Thus, funding letters, affiliations and even the way the OF-156 is filled out may affect the decision of the consul to apply the Two-Year Requirement. For example, if your funds come from a "national institute," that will suggest to the consul that the Two-Year Rule should apply. Or if you fill in the box on the OF-156 that asks "how will you be supported?" by answering "salary," and you work for the government or an affiliated agency, the consul may elect to apply the two-year rule.

If the necessary conditions governing the Two-Year Rule apply to you, and you go ahead and request the J-1 entry visa, you will be subject to the limitations of the Requirement. You may be able to secure a [waiver](#) of the Requirement, but it is easier for some Visitors than others to do this. If you believe your government will release you from an obligation to return home after your program is completed, you can probably assume a waiver is a possibility.