**U.S. Department of Homeland Security**
U.S. Citizenship and Immigration Services
*Office of Public Engagement* (MS 2000)
Washington, DC 20529-2000

**U.S. Citizenship and Immigration Services**

December 21, 2011

# Executive Summary

## USCIS Listening Session on J-1 Exchange Visitor Waivers

### Background

On November 2, 2011 U.S. Citizenship and Immigration Services (USCIS) and the Department of State hosted a joint teleconference regarding the adjudication of J-1 exchange visitor waivers. Certain J-1 exchange visitors are subject to a two-year home-country physical presence requirement. This requires them to return to their home country for at least two years at the end of their exchange visitor program. This is also known as the foreign residence requirement under U.S. law, Immigration and Nationality Act, Section 212(e) (INA 212(e)). If the J-1 visa holder is unable to return to their home country to fulfill the two-year requirement, they must obtain a waiver approval.

The purpose of this engagement was to provide an opportunity for stakeholders to offer their feedback on issues associated with the J-1 waiver process. The engagement sought individual stakeholder feedback. The session was not intended to obtain group or consensus advice.

### Stakeholder Feedback

Notification of Attorneys

Several stakeholders commented that the attorney listed on many approval notices was incorrect. Often times, the attorney listed on the approval notice had moved or no longer worked for the same company. This caused a significant time delay for the appropriate attorney to receive the approval notice, if he or she received it at all. Department of State responded that it enters the attorney information directly from the G-28 and then submits this information electronically to USCIS. USCIS sends notices to the attorney of record, as indicated by the Department of State. Stakeholders were encouraged to send examples of incorrectly addressed approval letters to the USCIS mailbox at public.engagement@dhs.gov.

In addition, other participants questioned whether there had been a policy change at the California Service Center (CSC) concerning notifying attorneys when their cases are transferred to the Department of State. Some stakeholders mentioned that instead of being notified as the attorney, they now have to make an InfoPass appointment.

J-1 Waivers for European Countries

Participants questioned whether someone who is from a European Union (EU) country can perform their two-year physical residence requirement in another European Union country. USCIS and DOS stated that the physical presence requirement must be completed in a persons' own home country. Section 212(e)

AILA InfoNet Doc. No. 11101833. (Posted 12/29/11)

requires that such person reside and be physically present in the country of his nationality or his last residence for an aggregate of at least two years following the departure from the United States. A participant then expressed concern that some U.S. Embassies are giving incorrect information that a person could live in any EU country and fulfill the requirement.

Another stakeholder expressed concern that typically kindergarten through twelfth grade teachers from Spain have not been subject to the two-year residency requirement in part, because the teachers do not receive government funding. However, the Government of Spain recently began telling teachers they are subject to the two-year home-country requirement. The stakeholder questioned whether a foreign government can makes its population subject to this requirement. The Department of State responded that there are ongoing discussions with the Government of Spain. The Government of Spain maintains that these teachers are subject to the two-year residency because the teachers do receive assistance from the government. Although the government may not directly give the teachers money, the government still gives money to the program.

J-2 Concerns

One stakeholder questioned whether a J-2 son or daughter remained subject to the two-year foreign residency requirement if his or her J-1 parent departed the country and completed their two-year residency requirement which the J-2 son or daughter remained in the United States (presumably under a different nonimmigrant category) and later married a U.S. citizen. The Department of State responded that the J-2 son or daughter would still need to apply for a waiver of the two-year foreign residence requirement and that they would also need a letter from Department of State to act as an Interested Government Agency (IGA) on their behalf.

If a J-1 visa holder did not apply for the waiver, what additional documentation does a J-2 visa holder need to apply for a waiver on his or her own? Department of State responded that the individual would need the following items:

- Birth Certificate
- The appropriate fee
- DS-2019 of the J-1 visa holder
- DS-3035
- and a letter requesting Department of State to act as an Interested Government Agency (IGA) on their behalf

## Resources

The Department of State recommended stakeholders visit the J-1 waiver page at www.travel.state.gov for a variety of information on J-1 waivers including:

- **How to apply for waivers**
- **Frequently asked questions**
- **Information on processing fees**
- **Estimated processing timelines**
- **Status check system for waiver case**
- **State contact information**

## Contact Information

**Department of State**
For inquiries such as making corrections after you have submitted an application, getting copies of forms such as the GS 3035, and determining if indirect government funding was received please contact the Department of State.
Email: fmjvisas@state.gov
Phone: 202-663-1225
Fax: 202-663-2868

**USCIS**
For general questions or concerns that were not answered during the teleconference please contact USCIS.
Email: public.engagement@dhs.gov

U.S. Citizenship and Immigration Services

# Teleconference Invitation

**J-1 Exchange Visitor Waivers**

**November 2, 2011 @ 2:00 PM**

United States Citizenship and Immigration Services (USCIS) and the Department of State (DOS) invite any interested parties to participate in a teleconference regarding the adjudication of J-1 Exchange Visitor waivers of the two year foreign residence requirement. The purpose of this engagement is to provide an opportunity for stakeholders to provide their feedback on issues associated with the waiver process.

**To Participate in the Session**

Any interested parties may participate in this event by telephone. All participants must respond to this invitation. Please contact the USCIS Office of Public Engagement at public.engagement@dhs.gov by **Tuesday November 1, 2011** referencing **"J-1 waivers"** in the subject line of your email. Please also include your full name and the organization you represent, if any, in the body of the email.

**To Join the Call**

On the day of the engagement please use the information below to join the session by phone. We recommend calling in 10 minutes prior to the start of the teleconference.

**Call-in Number: 1-888-917-8053**

**Passcode: 2009467**

**We look forward to engaging with you!**