

Foreign nationals receiving appointments to Cold Spring Harbor Laboratory (CSHL) require a valid U.S. working visa to work at the Laboratory. It is important for a foreign national to arrive in U.S. on the appropriate visa. Below is the list of visa categories, which are sponsored by the Laboratory. We also sponsor our Foreign Students for their F-1 visas. The visa arrangements are facilitated with our Senior Paralegal, Rashmi Sinha (Primary Designated School Official/Alternated Responsible Officer) under the direction of Katie Raftery, the Human Resources Director (Designated School Official/Responsible Officer).

### **Visa Classifications**

1. J-1 visa (exchange visitor)
2. H1B visa (temporary workers for specialty occupation)
3. TN visa (Canadians and Mexicans)
4. O1 visa (aliens with extraordinary ability)
5. F1 visa (student visa)
6. B1/B2 visa (visitors for business and tourism)
7. Visa Waiver Program (VWP)

### **J-1 visa (exchange visitor's visa)**

Cold Spring Harbor Laboratory is a designated exchange visitor program sponsor authorized to carry the exchange visitor program for "Research Scholar". We issue the certificate of eligibility for an exchange visitor, form DS-2019 (formerly IAP-66) for our overseas appointments who qualify under the category of "Research Scholar" which includes our visiting undergraduate students, visiting graduate students, visiting scientist/post doctoral fellows and our full time research scholar/post doctoral fellow.

The total duration of stay in United States for a research scholar on J-1 status is three years. Most of our overseas appointments for the position of a postdoctoral fellow prefer to come to the Lab on a J-1 visa because it is often quicker and simpler to get than h1B visa and J-2 spouses are allowed to work in U.S. after getting a work authorization document from the BCIS (Bureau of Citizenship and Immigration). However, before you decide in favor of a J-1 visa, it is important for you to be familiar with the two-year home residency requirement imposed on certain J-1 visa holders.

## ***Two-year home residency requirement for certain J-1 visa holders (rule 212e)***

*The two-year home country residence requirement is a restriction unique to the J-1 visa, and one that must seriously be contemplated by anyone considering applying for a J-1 visa. Those exchange visitors who are subject to this requirement (and who are unable to obtain its waiver) must, after expiration of their J-1 visa and before becoming eligible to change nonimmigrant status in U.S. or obtaining US permanent resident or green card status, live for two-years in the country of which they were residents when they applied for the visa. The reason for the requirement is that the government policy behind the exchange visitor program is to promote mutual cultural exchange. If the exchange visitor to the U.S. did not go home, the U.S. would benefit, but the rest of the world would suffer and further the rest of the world would not be as receptive to American participation in similar exchange programs abroad. In the case wherein the requirement applies, it must be satisfied even if the exchange visitor marries a U.S. citizen.*

*This requirement applies to an exchange visitor whose*

- 1. J-1 program is to any extent financed by the U.S. government or the government of another country*
- 2. Who is performing a skill which is in short supply in his/her home country*
- 3. J-1 program consist of Graduate Medical education or training.*

*The exchange visitor who is subject to this requirement can apply for a waiver. Please visit the US Department of State, visa services website at <http://www.travel.state.gov/jvw.html> for more information on J-1 visa waiver.*

*The Human Resources Department needs to collect important information before issuing the DS-2019 to a visa applicant.*

*J-2 visa is available for dependents of J-1 visa holders.*

## ***H1B visa (temporary workers for specialty occupation)***

*CSHL sponsors the overseas appointments for a H1B visa, which is defined as a temporary working visa for a person working in a specialty occupation or profession. In the usual case, our postdoctoral fellows opt for a J-1 visa, but if they want to avoid the two-year residency rule, the Lab can sponsor them for a H1B visa. All other employment categories such as IT professionals, lab technicians and foreign nationals coming to work at the lab in the category other than that of a research scholar are sponsored for a H1B visa.*

*The H1B visa holders do not need to prove their intent to return to their home country and may intend to immigrate to the U.S. They may change their status in the U.S and may also apply for a permanent residence (green card) through their employment or through other means. There are three factors that determine whether a proposed job is in a specialty occupation or profession:*

- 1. Whether a Bachelor's degree or advanced degree is require to perform the Job duties*
- 2. Whether the degree requirement is common in the industry for the position*
- 3. Whether the employer normally requires a degree or specialized experience for the position.*

*And once it is determined that the job is a specialty occupation, we need to prove that the applicant has the necessary education and/or experience to perform the job duties.*

*Obtaining an H1B visa is usually a longer, time-consuming process. The Laboratory needs to file a H1B (I-129) petition with BCIS and BCIS processing time on this type of case is usually 60-120 days or even longer. Therefore a minimum of six months time should be allowed for an H1B application.*

*The Laboratory may petition for an employee for an appointment of up to three years, with an extension to a total maximum of six years. The certificate of eligibility in this case is the form I-797 (H1B) approval notice from INS that is required for a H1B visa application at the US consulate abroad.*

*The H-4 visa is available for dependents of a H1B visa holder. The dependent of a H-1B holder cannot be granted work authorization under any circumstances. However, they may seek independent visa sponsorship to allow for employment in professional positions.*

### ***TN visa (Canadians and Mexicans)***

*TN status is available only to Canadian and Mexican citizens. Unfortunately, the procedures for obtaining TN status are not the same for Canadians and Mexicans. In short, the only reason for a Mexican citizen to apply for TN status rather than H-1B status is if the H-1B annual quota has been reached or if the candidate does not otherwise qualify for H-1B status. Therefore, this information is directed mainly at Canadian citizens (Canadian landed immigrants and non-Canadian citizens must apply for H-1B status).*

*In order to obtain TN status, a person must be able to prove that he is coming to work in an occupation that is on the NAFTA professions list, that he possesses the specific criteria for that profession, and that he will be engaged in business activities at a professional level for a U.S. employer. Self-employed individuals are generally not eligible for TN status.*

*However, if you are self-employed and are going to do work for a U.S. entity, you may be eligible for TN status. Spouses and unmarried, minor children of the TN principal are eligible for TD status. TD nonimmigrants are not authorized to accept employment in the U.S., including self-employment. Application for TN status is made at a border port-of entry, such as an airport or bridge. You must show proof of your citizenship (Canadian passport or birth certificate is sufficient), proof of minimal educational requirements and credentials for the professions category that you are applying under (originals or certified copy of degree, license, transcripts, etc.), and a job offer letter from Cold Spring Harbor Laboratory outlining the proposed job duties. TN status is only valid for one year at a time, but there is no limit to the number of times the status can be renewed. You cannot file for a U.S. permanent residence application while on TN status. In order to apply for permanent residence/green card, you must change your status from TN to H1B.*

### ***O-1 visa (aliens with extraordinary ability)***

*O 1 visas are available to applicants who can show they have extraordinary ability as demonstrated by sustained national or international prominence in their field for several years. The applicant must work in the following fields in the U.S. to qualify for an O visa: science, art, education, business, or athletics. To qualify for an O-1 visa, an applicant must provide documents proving extraordinary ability. Examples of proof of extraordinary ability include nationally or internationally recognized prizes or awards for excellence, membership in associations requiring outstanding achievements, and articles written by or about the applicant. There are special requirements for artists and entertainers. O-1 visa applicants do not have to prove that they will not abandon their foreign residence. Before an O visa can be granted, the applicant must go through a special consultation process. The applicant must get an "advisory opinion" from a peer group (a group of individuals in the alien's occupation or profession), or a union, labor, or management organization. An "advisory opinion" is a letter from an organization, which states that the positions the applicants will hold requires extraordinary ability and that the applicant has extraordinary ability.*

*The O-1 visa holder may remain in the US until the event; project or activity for which the alien is admitted is completed. The initial period of stay can be sought for three years and thereafter extensions in one-year increments may be sought to complete the activity, event or project.*

*O-2 visas are available for the support personnel of O-1 visas holders in order for them to perform their job. O-3 visas are available for dependents of O-1 visa holders.*

### ***F-1 visa (foreign students)***

*F-1 visas are available for applicants intending to be full-time students at Watson School of Biological Sciences. CSHL/WSBS is a SEVIS (Student and Exchange Visitor Information System) approved school for sponsoring foreign students who have been admitted to WSBS.*

*We issue the certificate of eligibility form I-20 for foreign students to apply for a F-1 visa. There are two basic requirements:*

- 1. You must demonstrate your ties to your home country and provide evidence to prove that you do not intend to abandon your home country and will return to your home country upon completion of your F-1 program.*
- 2. Documentary evidence of financial support for your tuition and living expenses in the United States.*

*Generally a foreign student is admitted to the United States for the duration of status i.e. for a period during which a F-1 student is pursuing a full course of study at an educational institution and engaged in authorized practical training upon completion of studies.*

### ***B1/B2 visa (visitors for business and tourism)***

*B visas are the most common type nonimmigrant visas. There are two types of B visas: B-1 (visitor for business) and B-2 (tourist) visas. B-1 visas are for aliens who are entering the U.S. to engage in short-term business activities, not to seek permanent employment. A B-1 visa holder can negotiate contacts, participate in conferences or seminars and consult with business associates. CSHL meetings and courses participants must apply for a B-1 visa. B-2 visas are for aliens who are entering the U.S. for pleasure or tourism. No CSHL paid employment is permitted on a B-1 or B-2 visa.*

*Although the Laboratory does not stand as the sponsor for this type of visa, a letter of invitation from the Institution is needed by visitors who apply for a B-1 visa at the US Consulate in their home country. Applicants for the B-2 visa should apply at the US Embassy or Consulate in their home country*

*A B-1 visa holder may stay in the US for a "reasonable" period of time for completion of the purpose of the trip, not to exceed one year. A B-2 visa holder is admitted for a standard period of 6 months*

### ***Visa Waiver program (VWP)***

*The Visa Waiver Program (VWP) enables citizens of certain countries to travel to the United States for tourism or business for 90 days or less without obtaining a visa.*

*At present there are 27 countries participating in VWP. They are: Andorra; Australia; Austria; Belgium; Brunei; Denmark; Finland; France; Germany; Iceland; Ireland; Italy; Japan; Liechtenstein; Luxembourg; Monaco; The Netherlands; New Zealand; Norway; Portugal; San Marino; Singapore; Slovenia; Spain; Sweden; Switzerland; United Kingdom*

*To enter the United States on VWP, you must: be seeking entry for 90 days or less; be a citizen of VW country; have a valid passport issued by a VB country (starting October 1, 2003-machine readable passport is required); Have a round-trip transportation ticket issued by airline/carrier that participates in VWP; Hold completed and signed form I-94W (arrival and departure record)-These forms are available from participating airline/carrier.*

*You can use the VWP only for business and tourism. Basically, you can do things that you can do on the B-1/B-2 non-immigrant visa but you cannot work in United States on a VWP. To work in United States, you must apply for a U.S. working visa.*

### ***Processing delay at the US consulate/Embassies***

*Responding to the attacks of September 11, 2001, the State Department, working with other U.S. Government agencies, has been engaged in an extensive and ongoing review of visa issuing practices as they relate to our national security. Visa applications are now subject to a greater degree of scrutiny than in the past. Applicants affected by these procedures are informed of the need for additional screening at the time they submit their applications and are being advised to expect delays. The time needed for adjudication of individual cases will continue to be difficult to predict. We recommend that individuals build in ample time before their planned travel date when seeking to obtain a visa. The consulates recognize that these delays are having an impact on visa applicants, and they have already had success streamlining the process, consistent with our security and legal responsibilities. The State Department is working hard with other government agencies to rationalize clearance procedures in ways that continue to protect US borders, the first priority, while facilitating legitimate travel. The applicants should understand that this waiting period is necessary as the Department strives to make every effort to ensure the safety and security of the United States for all who are here, including foreign visitors. In recent days, two changes in the U.S. immigration policy were announced.*

#### ***1. State to interview most visa applicants***

*The State Department announced plans to conduct face-to-face interviews with nearly everyone seeking a visa to enter the U.S. The interview policy is aimed at arranging face-to-face meetings with at least 90% of the visa applicants. These interviews will take place at the U.S. consulate in the applicant's home countries. Until the new policy is finalized, the effect on visa issuance is unclear.*

#### ***2. DHS (Department of Homeland Security) to document majority of foreign Visitors***

*Effective January 1, 2004, foreign visitors arriving in the U.S. will have their photos and fingerprints taken and travel documents scanned as a part of the U.S. Visitor and Immigration Status Indication Technology (U.S. VIS program).*

*These measures will apply to those entering the U.S. on a visa. The purpose of this program is to give the government a better idea on who is entering and leaving the U.S.*

***Important:*** *Starting next year, all employers should prepare their new hires for a longer wait and additional scrutiny at the U.S. port of entry. This new policy adds another level of security to the visa process.*

## ***Student and Exchange Visitor Information System (SEVIS)***

*CSHL/WSBS are DHS and DOS authorized foreign students and exchange visitors program sponsor, known as SEVP (Student and Exchange Visitor Program) sponsor. A partnership project, SEVP is a joint venture between the Department of Homeland Security, the Department of State, and the Department of Education. A principal part of SEVP is an Internet-based system, the Student and Exchange Visitor Information System (SEVIS), which provides tracking, monitoring, and access to accurate and current information on non-immigrant students (F and M visa) and exchange visitors (J visa). SEVIS enables schools and program sponsors to transmit electronic information and event notifications via the Internet to the DHS and the Department of State throughout a student or exchange visitor's stay in the United States. SEVIS allows printing of the appropriate forms (I-20 for foreign students and DS-2019 for exchange visitors) and also provides reminders, alerts, and basic reporting capabilities.*

*Please click on the following link for Frequently Asked Questions on SEVIS <http://www.immigration.gov/graphics/shared/sevis/sevpga.htm>.*

### ***Duration of stay in the United States:***

*Many individuals have difficulty understanding the difference between the visa expiration date and the length of time you have permission to remain in the United States on a legal status as authorized by the BCIS at the port of entry in the United States.*

*A visa holder must understand the concept of the visa and status. Under immigration law, the two concepts are distinct, even though in discussions, the word "visa" and the word "status" are used interchangeably. The word "visa" in immigration law refers to the visa stamp issued by the U.S. consulate in the foreign country, which enables a person to board a flight to the U.S. On the other hand, "status" is given by the BCIS officer at the port of entry when a person arrives in the U.S. to allow the person to enter the U.S. The real entry permit is the Form I-94 (Arrival/Departure Record) that gets stapled to the passport at the port of entry. This card provides the person valid legal status to remain in the U.S. for the duration of time mentioned, that is, tells you how long you may stay in the U.S. during that visit.*

*In general, a Research Scholar coming to United States on J-1 visa will be issued a I-94 for D/S (Duration of Status), which means he/she can stay and work in United States for the duration of the program as listed on the DS-2019 and for the period of extension approved by the Responsible Officer in coordination with the Department of State (not to exceed three and half years limit on the total duration of the program) and a Research scholar coming to the U.S. of H1B will be issued a I-94 with the date of expiry as noted on his/her form I-797 (H1B approval notice from INS) or an expiry date noted on his/her H1B visa.*

For more information, please click on the following link:  
<http://www.travel.state.gov/xtension.html>

***Important links:***

1. ***Visa to United States*** <http://www.usvisa.gov/>:
2. ***Department of State notice on non-immigrant visa processing situation***  
<http://www.travel.state.gov/specialnotice.html>
3. ***The special visa processing procedure for nationals of state sponsors of terrorism*** <http://www.travel.state.gov/section306.html>:
4. ***US embassies and consulates website***<http://www.travel.state.gov/links.html>
5. ***Foreign student visa*** <http://www.travel.state.gov/visa;foreignstuden.html>
6. ***What consul's look for F-1 visa application***  
[http://www.travel.state.gov/what\\_consuls\\_look\\_for.html](http://www.travel.state.gov/what_consuls_look_for.html)
7. ***Exchange visitor (J-1) visa to the United States***  
<http://www.travel.state.gov/visa;exchange.html>
8. ***Temporary worker (H1B) visa***<http://www.travel.state.gov/visa;tempwkr.html>

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