



Immigration Information

Foreign nationals joining Cold Spring Harbor Laboratory (CSHL) require valid U.S. immigration status to work or study at the Laboratory. It is important for individuals to arrive in the U.S. in the appropriate immigration status.

This document contains a list of immigration statuses, as well as requirements and important links. The CSHL Immigration Specialist, Victoria Panebianco (Alternate Responsible Officer/Designated School Official), under the direction of Katie Raftery, Vice President, Chief Human Resources Officer (Responsible Officer/Principal Designated School Official), will assist individuals in obtaining the appropriate immigration status in accordance with U.S. immigration regulations and CSHL policies.

Visa vs. Immigration Status

The term “visa” is often used interchangeably to mean both an individual’s visa and their immigration status, however, the terms are quite distinct.

- A **visa** is a sticker that is placed in a passport, used to seek entry into the U.S. at a Port of Entry. The visa is required to be current when an individual enters the U.S. If the visa sticker is expired, an individual may remain in the U.S. indefinitely in lawful status. An individual is required to apply for a new visa overseas to re-enter the U.S. after traveling internationally if their visa is expired. Visa renewals tend to be an easier process than the original application, but there are no guarantees; individuals should be prepared to spend at least a few weeks abroad.
- **Immigration status** is the legal category under which a visitor has been admitted to the U.S. The categories are often associated with certain letters (J-1, F-1, H1-B, O-1, TN, etc.), and each category has different requirements under which status may be granted, as well as different governing regulations, responsibilities, and benefits.

Administrative Processing

Visa applications may be subject to Administrative Processing, a thorough security check by the embassy or consulate that may delay the issuance of a visa by two weeks to a few months until the security check is completed by U.S. federal agencies in conjunction with the U.S. Department of State. When Administrative Processing is required, the consular officer will inform the applicant at the end of their visa interview. The duration of the Administrative Processing will vary based on the individual circumstances of each case. Visa applicants are reminded to apply early for their visas, well in advance of the anticipated travel date. It is important to note that Administrative Processing cannot be expedited. More information regarding Administrative Processing is available on the [DOS site](#).

B-1 and Visa Waiver for Business (WB)

These immigration classifications allow short-term visitors to visit the U.S. to conduct business, present a lecture, and attend conferences, seminars, and other business meetings. Detailed information may be found on the Department of State (DOS) [Visitor Visa page](#).

These visa statuses do not allow employment, but do allow honoraria and per diem payments to be made, provided that the visitor's stay at CSHL is no longer than nine days and the visitor has not accepted reimbursements from more than five other institutions in the U.S. during the preceding six-month period.

Since 2016, those who have previously been in Iran, Iraq, Libya, North Korea, Somalia, Sudan, Syria or Yemen on or after March 1, 2011, or in Cuba on or after January 12, 2021, or who are dual nationals of Cuba, Iran, Iraq, North Korea, Sudan or Syria, are not eligible to travel under the [Visa Waiver Program](#) (VWP). These individuals may apply for a visa using the regular immigration process at embassies or consulates. Meetings & Courses participants are required to apply for B-1 or WB status.

B-2 and Waiver for Tourism (WT)

These nonimmigrant visa categories allow short-term visitors to visit the U.S. for tourism, vacation, visiting family and friends, or medical treatment. Visitors are required to request a B-2 visa at the appropriate U.S. consulate, unless they qualify for entry under the [Visa Waiver Program](#). These categories do not allow employment.

Since 2016, those who have previously been in Iran, Iraq, Libya, North Korea, Somalia, Sudan, Syria or Yemen on or after March 1, 2011, or in Cuba on or after January 12, 2021, or who are dual nationals of Cuba, Iran, Iraq, North Korea, Sudan or Syria, are not eligible to travel under the VWP. These individuals may apply for a visa using the regular immigration process at embassies or consulates.

F-1

This nonimmigrant classification is available to full-time students enrolled in the Cold Spring Harbor Laboratory School of Biological Sciences. F-1 status is valid for as long as the student remains enrolled in the School with a full course load. Individuals seeking admission to the Cold Spring Harbor Laboratory School of Biological Sciences will undergo the admissions process and receive a Form I-20, which will be presented at a U.S. embassy or consulate overseas to request an F-1 visa for entry to the U.S. The Form I-20 may also be filed with the appropriate application and supporting documentation to request a change to F-1 status by an individual who is inside the U.S.

More information regarding the F-1 program may be found on the Department of Homeland Security (DHS) [Study in the States](#) site.

J-1

The J-1 program was created to increase mutual understanding between the people of the U.S. and the people of other countries through educational and cultural exchanges that support the development of peaceful relations. J-1 Exchange Visitor (EV) immigration status is available to scholars to engage in educational and cultural programs in the U.S. and return to their home countries to share their experiences, as well as encouraging their colleagues in the U.S. to participate in educational and cultural programs abroad. CSHL is authorized by the J-1 Exchange Visitor Program to accept research scholars, short-term scholars, doctoral students, and non-degree students. Depending on the category, the program may be valid for multi-week to multi-year periods. Regardless of the duration of the program, scholars are required to focus on the specific goals of the program for the duration of their stay in J-1 status.

- **J-1 Research Scholars** are participants in programs primarily involving teaching, research, long-term professional observation, or consulting. Research Scholars may participate for up to 5 years.
- **J-1 Short-Term Scholars** are professors, research scholars, and other individuals with similar education or accomplishments traveling to the U.S. on a short-term visit to lecture, observe, consult, train, or demonstrate special skills at research institutions, museums, libraries, post-secondary accredited academic institutions, or similar types of institutions. Short-Term Scholars may participate for up to 6 months.
- **J-1 Students** are full-time, enrolled students working toward a degree at an accredited educational institution. Ph.D. students are authorized to participate for an unlimited length of time if they are either:
 - Studying at the post-secondary accredited academic institution listed on their Form DS-2019 and are:
 - Pursuing a full course of study as set forth in [22 CFR 62.23\(e\)](#); and
 - Maintaining satisfactory advancement towards the completion of their academic program; or
 - Participating in an authorized academic training program as permitted in [22 CFR 62.23\(f\)](#).
- **J-1 Non-Degree Students** may participate in a non-degree program for up to 24 months. The student is required to be participating full-time in a prescribed course of study and maintaining satisfactory advancement towards the completion of their academic program, or participating in an authorized academic training program as permitted in [22 CFR 62.23\(f\)](#).

All J-1 scholars and J-2 dependents are required to obtain health insurance that meets specifications outlined in the J regulations. Please refer to the Insurance section on the [BridgeUSA site](#) for a full list of requirements.

There are two types of bars that impact eligibility to begin a new program in the Professor or Research Scholar categories: the 12-month bar and 24-month bar.

- **The 12-month bar is a repeat participation bar.** It affects EVs who wish to begin a new J-1 program in the Research Scholar or Professor category. If the EV has had a physical presence in the U.S. in any J category (including J-2) in the last 12 months, they are barred from participation in J-1 status as a Professor or Research Scholar unless:
 - Their prior U.S. physical presence in J status was of less than 6 months duration, or
 - Their prior physical presence was as a Short-Term Scholar, or
 - An EV will join a new institution by *transferring* their current SEVIS record from their current program sponsor.

- **The 24-month bar prohibits repeat participation in the EV categories of Professor and Research Scholar.** It requires that the EV not be in J Professor or Research Scholar status for two years before becoming eligible for another 5-year period of program eligibility in J Professor or Research Scholar status. This bar is in effect the moment the EV completes a program as a Professor or Research Scholar, even if they did not utilize their full five years of eligibility.

***Note:** The 12-month bar and the 24-month bar are two separate conditions, each of which is required to be met by a prospective Professor or Research Scholar.

It is important to differentiate the bars from the [Two-Year Home Residency Requirement](#), which restricts exchange visitors from changing their U.S. status, applying for H-1B or L employment visas, or adjusting their status to legal permanent resident before fulfilling or obtaining a waiver of this requirement. In keeping with the goals of the J-1 program to promote cultural exchange, visitors in J-1 status are expected to return to their country of origin at the end of their program and share their experiences from their time in the U.S. For this reason, all J-1 programs are required to be temporary in nature, and cannot be used for sponsoring staff positions or tenure-track faculty appointments.

Section 212(e) of the Immigration and Nationality Act (INA) is a U.S. law that requires some individuals in J-1 status to return to their home country for two years after their exchange program. This requirement is also known as the two-year home residency requirement or the two-year home country physical presence requirement. If an individual cannot return home for two years, they are required to apply for a waiver. DHS is required to approve the waiver before an individual may change status or receive certain immigration statuses.

There are three factors under which an Exchange Visitor may be subject to 212(e):

1. Foreign/U.S. Government Funding
2. [Exchange Visitor Skills List](#)
3. Graduate medical education or training

Additional helpful information about J-1 status is available in the following documents:

- [EVP Welcome Brochure](#)
- [Know Your Rights - Wilberforce Pamphlet](#)



H-1B

Employers may hire professional workers in a "specialty occupation" using the H-1B category. A "specialty occupation" requires the theoretical and practical application of a body of highly specialized knowledge considered to be equivalent to the attainment of a U.S. bachelor's degree or foreign equivalent in a specific field. The employee is required to meet the minimum hiring requirements of the position, including the degree(s) in the appropriate field, license, etc., and is required to prove with an equivalency evaluation that the foreign degree is equivalent to the required U.S. degree. An individual may hold H-1B status for a maximum of 6 years, unless they meet [specific requirements](#) that allow the status to be extended beyond the sixth year.

The CSHL Visa Policy states that the Lab does not file for H-1B status if an individual is eligible for J-1, F-1 OPT, or F-1 STEM OPT status.

U.S. Citizenship and Immigration Services (USCIS) may take 6 to 9 months to process H-1B petitions. Petitions may be expedited for an additional \$2,805 premium processing fee, which guarantees that the petition will be adjudicated within 15 business days. This fee is paid by the employee. If the employee is outside the U.S., they are required to apply for an H-1B visa at a U.S. consulate in order to enter the U.S. in H-1B status.

O-1

O-1 classification is for those who have extraordinary ability in their academic field "demonstrated by national or international acclaim recognized in the field through extensive documentation" requested to work for specific employer for a specifically prescribed project/program. "Extraordinary ability" is defined as a "level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor". [[8 CFR 214.2\(o\)\(3\)\(II\)](#)] This is required to be established to the satisfaction of the DHS through a variety of documentation, listed on the [USCIS site](#).

There is no explicit maximum time limit in the regulations as to how long a scholar may remain in the O-1 classification. However, DHS will grant O-1 classification for up to three years initially. It is then possible to apply for one-year extensions after the initial O-1 approval, but only so long as the primary purpose for which the scholar was admitted is continuing.

TN

TN status is provided for within the terms of the United States-Mexico-Canada Agreement (USMCA). Nonimmigrant USMCA Professional (TN) status allows citizens of Canada and Mexico to work in the U.S. in a prearranged business activity for a U.S. or foreign employer. Canadian citizens do not require a TN visa sticker in their passport and may apply for admittance in TN status at a U.S. Port of Entry, although a visa sticker may be issued to qualified Canadian TN visa applicants upon request. Among the types of professionals who are eligible to seek admission as TN nonimmigrants are accountants, engineers, lawyers, pharmacists,

scientists, and teachers. The complete [Designated Profession List](#) covers all professions that qualify for the NAFTA TN category. The initial period of stay is up to 3 years; extensions may also be granted in 3-year increments. More information about TN status is available on the [DOS site](#).

E-3

The E-3 visa category applies to citizens of Australia entering the U.S. in a “specialty occupation” under the Australia-United States Free Trade Agreement (AUSFTA). A “specialty occupation” means an occupation that requires the theoretical and practical application of a body of highly specialized knowledge considered to be equivalent to the attainment of a U.S. bachelor’s degree or foreign equivalent in a specific field. Positions that have a minimum hiring requirement of a U.S. bachelor’s degree or foreign equivalent in a specific field generally qualify for the E-3 classification. The potential employee is required to meet all the minimum hiring requirements of the position, including the degree(s) in the appropriate field, license, etc., and are required to prove with an equivalency evaluation that a foreign degree is equivalent to the required U.S. degree.

The E-3 classification may be requested initially for two years and extended in increments up to two years. The E-3 has an annual limit or "cap" set by Congress of 10,500 applications with applies to all principal E-3 nonimmigrants. This cap may affect whether an employer can obtain E-3 status for an employee. Further information is available on the [USCIS site](#).

For questions regarding immigration matters, please contact:

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