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## **ABOUT US**

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# **NORI- NO OBLIGATION TO RETURN TO INDIA**

AUTHORED BY - SIMRAN MEHTA

## **INTRODUCTION**

NORI (no obligation to return to India) which is precisely also known as the J1 waiver, is a required document to waive off the obligation of 2 year home residency rule for J1 holders.

In 2014, the Government of India came out with a policy that ensures that doctors return to India after completing their training or their higher studies in the United States of America.

It banned the issuance of NORI, however, and an age bar was set to get this issuance.

The process of applying for NORI is a defined channel established by the concerned authority.

To get into details of what NORI is, prima facie, we need to dig into the procedure, the requirements, documentation, and other requisite administrative or any kind of precaution that need to be taken before the waiver.

Apart from this, we need to establish a strong diplomatic relationship with the country (preferably for NORI) we also need to keep a check on the visa, its limitations, and its applicability with the concerned countries concerning India.

Through this paper, efforts have been made to attain the essence of the NORI certificate and the other intense to root out various dilemmas and the complexity embedded in the whole process of NORI along with the lacuna present for a specific section of a profession.

## **WHAT IS VISA?**

It is believed that VISA stands for Verified International Stay Approval/Address or Virtual Important Stamp Authorization but the truth is that there is no standardized full form of visa.

According to the Collins dictionary, the visa is defined as an official document, or a stamp put in your passport, which allows you to enter or leave a particular country.<sup>1</sup>

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<sup>1</sup> HarperCollins Publishers Ltd. (n.d.). Visa definition and meaning: Collins english dictionary. Visa definition and meaning | Collins English Dictionary. Retrieved July 1, 2022, from <https://www.collinsdictionary.com/dictionary/english/visa>

Visa specifies the duration of your stay, your entry, what territories you're allowed to visit, how many visits you're allowed to make, and whether or not you're allowed to study or work during your trip.

➤ **Concerning the U.S. government:**

A foreigner who wants to enter the United States usually must first obtain a U.S. visa, which is included in the traveler's passport, a travel document issued by the traveler's country of residence.

Some international travelers may be eligible to travel to the United States without a visa if they meet visa-free requirements. The Visa section of this website is about US visas for foreigners traveling to the United States.

➤ **Concerning the Indian government:**

A visa is a form of permission for a non-citizen to travel, enter, transit, or remain in a particular country.<sup>2</sup>

## **NORI- NO OBLIGATION TO RETURN TO INDIA**

### **What is NORI?**

No Obligation to Return to India (NORI) Certificate is required when a person has gone to the USA on a J-1 visa. The j-1 visa is subject to a two-year home-country physical presence requirement which requires J-1 visa holders 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)[3]. Before issuing a waiver, the Embassy/CGI asks the J-1 visa holder to get NORI from the Ministry of Human Resource Development.

The External Scholarship Division, Department of Higher Education, Ministry of Human Resource Development.

**NOTE:** As per the instruction of the Ministry of Health and Family Welfare, the NORI certificate will not be issued if any of the qualifications possessed by the applicants is included in any of the three schedules of the Medical Council of India Act, 1956. The same can be accessed through the public domain of MCI.

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<sup>2</sup> <https://boi.gov.in/>, accessed on 21 June, 2022.

The Home Department of State in India which the applicants belong to a The Regional Passport Office in India (where the passport was issued initially);

Ministry of Human Resource Development has launched a new portal for NORI which has been functional since 27.02.2016 and is accessible through its domain. The physical model of the application has been discontinued from 27.05.2016. It is to be noted that for getting a NORI certificate from the other two departments, mentioned above, the applicants are required to apply to them.

**NOTE: Immigration and Nationality Act, Section 212(e)** - INA 212(e) makes certain J visa participants ineligible for an H, L, or Lawful Permanent Resident (LPR) status until they have returned to and been physically present in their last country of citizenship or permanent residence for a minimum of two years after completion of their J exchange programs.<sup>3</sup>

#### **What is the Two-Year Physical Presence Requirement?**<sup>4</sup>

Under Section 212(e) of the Immigration and Nationality Act, J visa holders should affirm with a two-year home-country actual presence as per requirement. The two-year home-country physical presence requirement doesn't put any restriction on you from visiting the United States for two years. However, it implies that you can not do any of the following until you have returned to your home country for at least two years:

- One can't change your status to a nonimmigrant temporary worker (H) or take an H visa.
- One can't change your status to a nonimmigrant intercompany transferee (L) or receive an L visa.
- One can't change your status to lawful permanent resident in the United States or receive an immigrant visa from a U.S. Embassy or Consulate.
- One can't receive a fiancé (K) visa.
- One everyone with a J-1 visa is subject to this requirement.

#### **How NORI was introduced?**

Earlier people who wanted to waive off the 2 years home country physical presence, had to submit

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<sup>3</sup> J-1 INA 212E Home residency requirement. Duke. (n.d.). Retrieved June 2, 2022, from <https://visaservices.duke.edu/categories/j1/212e-residency>

<sup>4</sup> J-1 visa waivers: Avoid the 2-year foreign residence requirement. Global Internships. (n.d.). Retrieved June 20, 2022, from <https://www.globalinternships.com/post/j1-visa-waiver>

their application in person and the process was quite time-consuming, so the physical mode of application was discontinued by 27.05.2016, and the Ministry of Human Resource Development launched a new portal for NORI<sup>5</sup> which has been functional since 27.02.2016.

Note: presently the process of applying for NORI in person is suspended.

### When is NORI required?

As per the Immigration laws of the United States of America, 2 years of home (India) residency is mandatory for all J-1 visa holders for applying for an H1B visa, i.e., a work visa. For this, the J-1 visa holders are expected to submit a NORI Certificate to US authorities. Ordinarily, the candidates who are staying in the USA need a J1-waiver for which they need to apply for a NORI Certificate to the Indian Missions/Posts concerned in USA. Those who have returned to India may apply for this Certificate in the CPV Division, Ministry of External Affairs, and New Delhi. The candidates staying in a third country are required to apply at the concerned Indian Mission/Post.

### NORI Importance?

If someone is unable to return to one's home country to fulfill the two-year requirement, one must obtain a waiver from the Embassy /Consulate General of India in the USA. To empower the concerned Embassy to issue a "WAIVER CERTIFICATE", for immigration, the applicant must obtain seal of approval directly from the authorities concerned in India, namely:

Benefits:

- Simplification of the process
- Develops Transparency
- Eliminates delay
- Tracking of the application

### How To Get NORI?

The Human Resource Development (HRD) Ministry has made the process of issuing the No Obligation to Return to India (NORI) certificate online with the launch of a web portal.

**The online application on the portal has commenced from 27th February 2016 and the process physical application has been suspended for the purpose Procedure for applying on NORI portal of Ministry of Human Resource Development:<sup>6</sup>**

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<sup>5</sup> <http://NORI.ac.in/>

<sup>6</sup> NIC, L. P. (n.d.). Ministry of Education, Department of Higher Education. Major Initiatives. Retrieved June 28, 2022, from <https://www.education.gov.in/en/scholarships-education-loan-3>

(FOR APPLICANTS WHO ARE PRESENT IN INDIA OR APPLYING THROUGH A PERSON PRESENT IN INDIA)

· The applicants are required to register themselves on the portal<sup>7</sup>. At the time of registration, the candidate is required to give the same current address as mentioned in the bio-data. The scanned copies (color) of the following documents are required to be uploaded while making an online application for NORI:

- (i) Affidavit,
- (ii) bio-data,
- (iii) educational/academic certificate/diploma/degree conferred after 10+2, (iv) visa and
- (iv) passport.

· Affidavit and bio-data should be in prescribed format which is available on the website of the Embassy of India/Consulate General of India (CGI) in the USA and duly notarized by a notary public and then authenticated by the concerned Embassy of India/CGI. Detailed instruction may be seen at their respective sites (links have been provided below).

· An applicant is required to give his/her response against all the columns and statements mentioned in the bio-data and affidavit. Candidates should give categorical responses viz. either 'yes' or 'no' instead of leaving it blank/dashes/not applicable against the columns and statements mentioned in bio-data and affidavit form.

· The applicants who are residing in India and applying for NORI, are required to download the prescribed forms for bio-data and affidavit from the link given below and are required to notarize these forms after filling them completely.

· The applicants who are residing in other countries than India and the USA are required to contact the Indian Mission in the residing country and are required to get the bio-data and affidavit notarized from the notary public and then these documents should be authenticated by the Indian mission in that country.

**The following facilities have been provided in the NORI portal for applicants:**

- To apply online

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<sup>7</sup> *Supra note 5*

· Applicant gets an e-mail when any update is made in his/her application status. The details may be seen after re-login to the portal.

· In case any shortcoming is found in the application, the applicants are intimated on the portal and they can submit their reply on the same portal.

· After the issue of NORI, a copy of the same can be downloaded from the portal.

**NOTE:** NORI certificate is sent to the Ministry of External Affairs in New Delhi/Embassy of India/Consulate General of India as the case may be.

### (FOR APPLICANTS WHO ARE PRESENT IN U.S.A)

**Procedure**<sup>8</sup> – The applicant has to get 3 or 4 sets of the attested from the Consulate in order to obtain No objection certificate (NOC) from the following Departments in India –

1. Ministry of Human Resource Development/ Ministry of Education (Department of Higher Education) or Ministry of Health and Family Welfare in case of doctors and medical professionals;
2. Home Department of the concerned State or Union Territory in India to which the applicant belongs.
3. Regional Passport Office in India from where the previous passport was issued.
4. Concerned bank or financial institution in case the applicant has raised any loan

Note: The passport office sends the NOC/clearance directly to the Consulate while the other two Departments will be sending NOC/clearances to the applicant directly.

The following documents/ clearances are required along with application for issuing NORI certificate:<sup>9</sup>

- Duly filled in **miscellaneous application**
- NOCs from all departments as above-mentioned accordingly.
- Original **notarized affidavit** containing full details of his/her visit to USA on student visa, especially, details of his/her Indian passport number, date and place of issue, period of stay in

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<sup>8</sup> Consulate General of India Toronto, Canada. Consulate General of India, Toronto, Canada : Procedure for issuing NORI certificate. (n.d.). Retrieved 2022, from <https://www.cgitoronto.gov.in/page/procedure-for/>

USA, his/her address in USA during his/her stay there and his/her present address in the place where currently staying;

- Original **notarized bio-data** of the applicant;
- Copies of the Indian passports including the one on which the applicant travelled to US and US visa pages;
- Copy of Third Party Bar Code page from the US State Department containing the applicant's Waiver Review Case File Number (this is required to be quoted in the NORI Certificate as well as details of passport, US address etc.).
- Applicants are expected to submit the above mentioned documents in original along with the application. Presence of applicant is required.
- Copy of PR card/Work or Study permit
- Provide with Proof of address where applicant lives (e.g. Canadian driving license, Gas, Electricity or landline telephone bill) containing applicant's address and House lease agreement.
- A fee amount should be paid through Debit Card/Bank Draft/Money Order drawn in favor of "Consulate General of India, concerned state".

How to get NOC from ministry of external affairs?<sup>10</sup>

The applicant who is in India should submit application for issue of NORI Certificate at the CPV Division (Consular-I Section), Ministry of External Affairs, Patiala House Annexe, Tilak Marg, New Delhi-110001 (Tel: 011-23389165; Email: [socons@mea.gov.in](mailto:socons@mea.gov.in)).

Those who are applying from a third country where they are currently staying, the concerned Mission/Post should issue NORI Certificate by accepting all the above documents.

Documents to be submitted in regional Passport office

- J-1 visa copy.
- Third party bar code
- Notarized affidavit and bio-data
- Copy of a passport
- (10+2) educational certificate

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<sup>10</sup> Mea: NORI. Ministry of External Affairs, Government of India. (n.d.). Retrieved 2022, from <https://www.mea.gov.in/NORI.htm>

## Who Can Apply For NORI?

Usually, the applicants who are living in the USA need a J1-waiver for which they need to apply for a NORI Certificate to the concerned Indian Missions/Posts in USA. The applicants who have returned to India may apply for this Certificate at the CPV Division, Ministry of External Affairs, New Delhi.

Ministry of Human Resource Development issues NORI only to non-medical category applicants as the following relating to

- (i) Higher training abroad in medical and allied subjects; and
- (ii) Medical profession and medical education, come under the domain of Ministry of Health & Family Welfare. For the issue of NORI, the applicants coming under medical category, are those who hold medical qualifications. Thus, the government has declared that it would not issue a 'No Obligation to Return to India' (NORI) certificate to doctors, under any circumstances, except to those who are over 65 years of age.<sup>11</sup>

Cases:-

**Aditi Sudhir Vaishnav vs Union of India on 30 September 2021<sup>12</sup>**

**Bench:** R.D. Dhanuka, Abhay Ahuja

*“He submits that by the said judgment, this Court has directed the Respondents therein to grant NOC for NORI certificate in favor of the Petitioner therein. It was made clear in the said judgment that the Respondent shall make it clear in the NORI certificate that in case the Petitioner starts practicing medicine in the USA, the NORI certificate would stand canceled and she would be required to come back to India. He submits that a similar endorsement may be made in the NOC as well as NORI certificate if issued in favor of the Petitioner by the Respondents in this case.”*

*“The Respondent No.1 (a) is directed to issue NOC for NORI certificate in favor of the Petitioner within four weeks from today. It shall be made clear in the said NORI certificate that in case the Petitioner starts practicing medicine in the USA, NORI certificate would stand canceled and she would be required to come back to India”*

In the above case,

The petitioner completed her graduation MBBS degree and enrolled as a doctor under the

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<sup>11</sup> <http://www.NORI.ac.in/>(Online portal launched by central Government)

<sup>12</sup> WRIT PETITION NO.1680 OF 2021

Maharashtra medical council act. The petitioner accepted an internship offered to her by the hospital for special surgery, in New York on 20th June 2017. Petition of for the applied to ministry of health and family welfare for issuance of a statement of need (SON) and same was issued. The petitioner applied to respondent no. 1 issuance of NOC for the NORI certificate. The court ordered respondent no. 1 to issue NOC for NORI certificate in favor of the petitioner within 4 weeks from the date of order.

Sunil Kiran Noothi vs The Union of India and Another on 20 December 2016<sup>13</sup>

Bench: R.M. Borde

*“In the above circumstances, the Writ Petition deserves to be allowed partly and it is accordingly allowed. The respondents are directed to reconsider the claim of the petitioner for grant of NORI Certificate in view of the fact that he is not a Medical Practitioner and is a Research Scholar. Respondent No. 1 (b) shall decide on the claim of the petitioner for the issue of the NORI Certificate within three months from today on its own merits keeping in mind the fact that the petitioner is a Research Scholar and not a Medical Practitioner. In case of respondent No. 1 (b) allows the claim of the petitioner, after considering the merits thereof, he shall communicate his decision to respondent No. 1 (a), who, in turn, shall decide on the claim of the petitioner for the issue of NORI Certificate within three months from the date of receiving communication from respondent NO. 1 (b).”*

In the above case, the petitioner has obtained the degree of M.B.B.S. and has got himself registered as a practitioner under the Karnataka Medical Registration Act, 1961, he never practiced as a Doctor/Medical Practitioner and is inclined towards research work. He applied to the Department of Physiology and Biophysics, Case Western Reserve University, Cleveland, Ohio, the U.S.A. for further research training as a postdoctoral fellow from January 2011 to December 2011 and traveled to the U.S.A. on a J1 (Research Scholar) Visa. he applied to the respondents for issuance of NORI Certificate. However, his request has been turned down on the ground that as per the extant policy guidelines, NORI Certificate is not issued by the Ministry of Health and Family Welfare to anyone except in the cases where the age of the applicant is over 65 years on the date of submission of the application.

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<sup>13</sup> WRIT PETITION NO. 8095 OF 2016

Here, the court granted permission for the issuance of a NORI certificate since he is not a Medical Practitioner and is a Research Scholar.

### J1 Visa?

The j-1 visa is also known as the exchange visitor visa. It is a temporary non-immigrant visa that allows foreign nationals to live and work in the U.S. It is for a temporary period to fulfill a particular program, as the program ends, then the respective person who obtained a j-1 visa is required to return to their home country. In the United States, The J-1 visa is for those who wish to take part in work-and-study-based exchange programs and visitor programs in the U.S. These programs are sponsored by an educational institution or other non-profit organization, which must be officially recognized through the Exchange Visitor Program designated by the U.S. State Department. J-1 holders come to the United States to teach, study, receive training, or exhibit special skills. The J1 visa is meant for students who require practical training that is not available to them in their home country, and the training should be directly related to their education system.

The J-1 visa has 15 categories of eligible roles and/or program type:<sup>14</sup>

1. Au Pair
2. Camp Counselor
3. College and University Student
4. Secondary School Student
5. Government Visitor
6. International Visitor
7. Physician
8. Professor
9. Research Scholar
10. Short-Term Scholar
11. Specialist
12. Summer Work Travel
13. Teacher
14. Trainee
15. Intern

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<sup>14</sup> *J-1 student visa (rules, requirements, & application)*. Shorelight. (2021, April 15). Retrieved 2022, from <https://shorelight.com/student-stories/student-visa-usa-j1/>

### J1 Visa Validity Periods

Depending on the occupation your J1 Visa supports, there are different periods of validity:

Teachers, scholars, researchers, and professors – 5 years.

Medical graduate students – 7 years.

Professional trainees and government visitors – 18-24 months

Camp counselors and summer workers – 4 months.

Nannies and au pairs – 1 year.

Employees of the International Communications Agency – up to 10 years

### How Can I Stay In The US After My J-1 Visa Expires?<sup>15</sup>

An Exchange Student's program period is considered to last from the first Date to the last on an Exchange Student's DS-2019 Form. For Exchange Students, this commonly reflects the semester term dates.

Admittance Period: The US Department of Homeland Security allows J-1 Visa Holders to enter the US up to 30 days before the start date on their DS-2019 Form.

Grace Period: J-1 Visa Holders have a 30-day grace period after the end date on their DS-2019 Form. The Grace Period is a benefit of the J-1 status to allow J-1 visa holders time after their status to remain in the US.

Grace Period time can be used:

- To travel locally (within the United States)
- Make travel arrangements
- Gather belongings/Pack/Move-Out of housing

The grace period is not considered part of the program time, so J-1 Visa Holders are not permitted to work or take classes during this time.

If J-1 Visa Holders exit the US during the Grace Period, they are not fit to re-enter the US using their J-1 Visa Status to use the remaining duration of the 30 days. If traveling internationally during the grace period (illustration, to Canada, Mexico, Caribbean Islands, etc.) Exchange Students must plan to return home directly from their international destination or use an alternate US visa status (like B1/B2 Tourist status, or ESTA equivalent) to re-enter the US and depart.

Visa Validity: A J-1 Visa is issued for entry into the US by Consular Officers. Visa validity is typically granted for the period between the start and end date on the DS-2019 Form. Visas may

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<sup>15</sup>International Center University of Florida. *Maintaining J-1 Status* | International Center University of Florida. (2022). Retrieved 2022, from <https://internationalcenter.ufl.edu/j-1-studentscholar/partner-school-exchange-students/maintaining-j-1-status>

be granted for multiple entries into the US or single entry into the US depending on the discretion of the Consular Officer.

### J1 Visa Extension Requirements

The necessities you need to meet to have your J1 visa extension approved are very simple process. Applicant must currently be on J1 status and applicant's program sponsor must have filed a DS-2019. There are, nonetheless, quite a few documents that an applicant has to submit for their J1 visa extension application.

### J1 Visa Extension Required Documents

You will need to submit the following documents with your DS-2019 to apply for a J1 visa extension:

Your Form DS-2019 and IAP-66

Your passport

Your Form I-94

Proof of your J1 Visa health insurance (this insurance must cover you for the length of your extension, as well as all your family members on J2 status)

Evidence of financial capabilities (only if your program is unable to fund you)

A valid explanation for the extension with supplementary documentation

Fortunately, you will not have to pay a SEVIS fee again when you apply for your J1 visa extension.

### How To Extend A J1 Visa

The J1 visa extension process is relatively straightforward

Apply for a J1 visa extension

still, file Form DS- 2019

If approved. Your program sponsor will have a specific officer who'll determine your eligibility for a J1 visa extension. However, the exercise will be made, If you're eligible.

If your extension is approved you'll be issued a new DS- 2019 form which has a new expiration date. The good news is, that if you have a better half or children with you in the U.S. on J2 status, your extension will cover them as well.

Make sure you apply for your J1 visa extension before the expiration date on your current DS-2019. It's stiffly recommended that you apply for your J1 visa extension as soon as you know you

wo n't be fit to complete your program in time — even if it's a several months in advance.

### What If Your J1 Visa Extension Is Denied?

If application of your J1 visa is denied, you will have to move back to your home country. Nonetheless you will have a 30-days of grace period from the date of completion indicated on your original DS-2019 to do this. If you stay in the U.S. after this grace period, you may be regarded as “out of status.” This can have serious consequences if you try to apply for a green card or visa in the future.

### H1b Visa?

The H1B visa is used by US employers for recruitment of foreign graduates and specialist employees. It is a non-immigrant, temporary worker visa that requires an offer of employment from a US employer. An H1B visa permits the holder to stay and work in the USA for over three years, with the option of extending your stay to a total of six years, provided that you can continue to hold qualifying employment.

Where most temporary workers must prove their intention to return home at the end of their visa, an H1B visa allows for ‘dual intent’, i.e., the opportunity to hold temporary employment in the US while also petitioning for permanent residence.

H1B status holders may become eligible for a Green Card and permanent residency if they stay and work in the US for the six-year maximum allowed under the H1B visa.

With H1B status, your spouse and children may accompany you to the US under an H-4 visa. This status will remain valid for the duration of your H1B visa. As H-4 visa holders, your spouse may also apply for an employment authorization document (EAD) to take up employment in the US for the length of your H1B visa.<sup>16</sup>

## **❖ Can You Change From A J1 Visa To An H1b?**

One can convert from J1 visa status to h1b visa status only after getting an offer of employment from a US employer. H1b visa permits the holder to stay and work in the USA for up to 3 years, with the option of extending your state to a total of 6 years, provided that person continues to hold qualifying employment.

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<sup>16</sup> Gogol, F. (2022, April 28). *This is how to file for a J1 visa extension in the U.S. [2022]. Stilt Blog*. Retrieved July 1, 2022, from [https://www.stilt.com/blog/2018/10/j1-visa-extension/#J1\\_Visa\\_Validity\\_Periods](https://www.stilt.com/blog/2018/10/j1-visa-extension/#J1_Visa_Validity_Periods)

## ❖ How To Change From J-1 To H1b?<sup>17</sup>

### **1. Find an H1B Sponsor**

Your H1B visa is dependent on a job offer from an employer who is willing to be your sponsor. There are numerous ways to find an sponsor for H1B visa. Get yours and move on to the next step in the process.

### **2. Employer Submits Labor Conditions Approval (LCA)**

Your employer will file an LCA to start the application process after you have been hired. The LCA is filed at the Department of Labor (DOL). The LCA filing states details about your employment like payment, working conditions, and place. The DOL would like to know that you will be treated fairly and equally as residents in your field of work and state of residence in the U.S. would be.

The processing time of an LCA approval may differ but you can further read about LCA approval in our guide.

### **3. Employer Submits Form I-129**

Once the LCA has been approved your employer will file the petition for a non-immigrant worker (form I-129).

This Application Needs:

The application fee

Documents stating your education and experience evaluation

Training certificates

Professional membership documents

Your resume

Employment Agreement

And the letter of support from your employer

### **4. Applicant Completes Application at a US Embassy or Consulate**

You need to wait for the petition to be approved. Then you need to go to the U.S. embassy or consulate in your home country to reprocess your new visa. It should take between 2-3 days but it may differ in your home country.

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<sup>17</sup> IBID

❖ **DIFFERENCE BETWEEN J-1 AND H1B VISA?**

<b>Question</b>	<b><u>J-1</u></b>	<b><u>H-1B</u></b>
<b>Purpose of visa</b>	Provide foreign nationals with exchange opportunities in research as well as access to cultural and general educational programs.	Dual intent visa: used for temporary employment visitors and for those who intend to apply for permanent residency
<b>Eligibility</b>	This category of visa is reserved for researchers, faculty and scholars, specialists and speakers, and students in exchange programs. All are in the U.S. on fixed terms. Researchers must be brought in for a specific purpose as defined by the sponsoring institution.	Reserved for specialty occupations (scholars and scientists) that require theoretical and practical application of a body of highly specialized knowledge in a field of human endeavor. Requires a Ph.D.
<b>Differences</b>	Two-year home residency requirement is imposed if home country funds research or occupation is on <a href="#">skills list</a> .	May be approved for J-1 visa researchers, professors or postdocs who have exhausted the three-year limit.
<b>Maximum length of stay</b>	Up to three years with possible six months extension.	Up to six years.
<b>Requirements for obtaining visa</b>	Academic and financial screening by the sponsoring institution confirmed by the issuance of the DS-2019.	Employer must demonstrate: <ul style="list-style-type: none"> <li>-employer-employee relationship</li> <li>-position applied for is professional</li> <li>-requires B.A./B.S at minimum; Ph.D. for postdocs and/or special skills</li> <li>-salary paid must meet the prevailing wage</li> <li>-benefits are commensurate with other similar positions</li> <li>-initial intent to hire is temporary</li> </ul>

		-must pay for return transportation home if employer terminates job.
<b>Extensions</b>	Yes, but the total stay cannot exceed three years.	Yes, but the total stay cannot exceed six years.
<b>Home residency requirement</b>	You may be required to live in your home country for two years if you have special skills needed by your country, or you used government funding for the program.  Waiver of the two-year home residency requirement may be possible. See the information on <a href="#">J-1 waivers</a> .	Not required.
<b>Travel restrictions</b>	Check with institution and/or immigration attorney.	Check with employer and/or immigration attorney.
<b>Cost to obtain the immigration status</b>	Many institutions charge a handling fee (approximately \$200-\$300) to process the DS-2019.	The U.S. government charges a filing fee of \$130 for the processing of the I-129 petition. Many institutions charge a \$1,000 handling fee or require payment of attorney fees.
<b>Who pays for visa processing</b>	The professor, researcher or postdoc or the institution.	The employer.
<b>Who files the request for immigration status</b>	The institution issues the DS-2019	The employer files the H-1B petition
<b>Processing Times</b>	The institution can take two weeks or several months to issue the DS-2019. The U.S. embassy may take another two months or more to issue the visa.	Employer can take up to three months to process the paperwork. The Immigration Service can take up to another six months. The U.S. embassy or

		consulate can take another two months to issue visa stamp.
<b>Can the procedure be expedited?</b>	No.	Yes, for the petition with the Immigration Service. No, for the visa stamp issuance.
<b>Cost of Expedited Service</b>	Not applicable.	\$1,000 premium processing fee.
<b>Authorized Employer</b>	May receive compensation from the school or institution that issued the DS-2019. You may also engage in temporary work in another institution if the work is related to the program and if you receive advance permission. Compensation may include travel grants and reimbursements.	May only work for the H-1B employer in the specific position approved. You are not eligible for honorariums; however, in some cases they can be paid reimbursements.
<b>Limit on obtaining status</b>	No, however, the applicant has to remain off J status for at least one year before the next three-year period.	No, however, the applicant has to remain outside of the U.S. for at least one year before the next six-year period.
<b>Consequences of letting immigration status lapse</b>	Termination of participation in J-1 program. Visits to the U.S. in the future will be prohibited in varying degrees depending on length of unlawful presence. For example, if you are in unlawfully present for more than 180 days, you are prohibited from returning to the U.S. in any visa status for three years.	Must leave the U.S. and reapply for admission in proper status. Visits to the U.S. in the future will be prohibited in varying degrees depending on length of unlawful presence. For example, if you are in unlawfully present for more than 180 days, you are prohibited from returning to the U.S. in any visa status for three years.
<b>Work while waiting for a</b>	You may continue in F-1 (student visa status) in an optional practical training	Cannot work until H1-B application is approved. You may remain in the

<p><b>change in visa category</b></p>	<p>(OPT) category for up to a year; however, you should apply at least six months in advance before OPT expires for change of status to J-1 or H-1B.</p> <p>Persons in J-1 status who are changing status to H-1B cannot start work until the application is approved.</p> <p>While a change in status is pending you cannot “volunteer” for work where you would normally be paid.</p>	<p>country if petition is submitted before previous status ends.</p> <p>While a change in status is pending you cannot “volunteer” for work where you would normally be paid.</p>
<p><b>Visas for family members?</b></p>	<p>J-2 for spouse and children under 21.</p>	<p>H-4 for spouse and children under 21.</p>
<p><b>Family members work authorization</b></p>	<p>Family members on J-2 visas may apply for an Employment Authorization Document (EAD) for any type of employment. However, their earnings cannot substitute for the support of the J-1 visa holder.</p>	<p>No.</p>
<p><b>Travel by family members travel</b></p>	<p>Spouse and minor children may be admitted into the U.S. in J-2 classifications. Each family member has a SEVIS-issued DS-2019 form issued in his/her own name by the sponsoring organization.</p> <p>When traveling, it is recommended that you carry copies birth and marriage certificates to more easily demonstrate spouse and children relationships.</p>	<p>Yes. Family members will need H-4 visas and verification that the H-1B principal is in the U.S. working for the approved employer.</p> <p>When traveling it is recommended that you carry copies birth and marriage certificates to more easily demonstrate spouse and children relationships.</p>

<b>Apply for visas for family members</b>	At a U.S. consulate or embassy.	At a U.S. consulate or embassy.
<b>Federal taxes</b>	Depends on tax treaty between home country and U.S. Most J-1 visa holders are considered residents of the U.S. for tax purposes if they meet the substantial presence test.	Depends on tax treaty between home country and U.S. Most H1-B visa holders are required to pay federal taxes and Social Security withholding.

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### ❖ What Is A Green Card?

A green card permits a non-U.S resident to acquire a permanent residence in the United States. A person with a green card will get permission to live and work (lawfully) anywhere in the United States and he will become eligible for U.S citizenship after 3 or 5 years.

### ❖ Can A J-1 Holder Obtain A Green Card?

Technically, J-1 visa holders are not qualified for a US green card since it is not considered a “dual intent” visa, which is a non-immigrant visa that permits holders to pursue a green card without jeopardizing their nonimmigrant status. Nevertheless, it is likely possible to apply for a green card. Initially, J-1 visa holders need to check their eligibility. If you are qualifying the requirements for a green card, then there are few ways to file an immigrant visa petition without contravening your current status.<sup>19</sup>

### ❖ J-1 TO GREEN CARD

Technically, J-1 visa holders are not qualified for a US green card. To get a J- 1 visa, you need to demonstrate that you have ties to your home country (like as family or assets) and that you completely intend to return onetime your J- 1 tenure has ended.

This is because the J- 1 isn't considered a “bipartite intent” visa, which is a nonimmigrant visa that

<sup>18</sup> *Critical Differences between H-1B and J-1 Visas by Peng & Weber.* (n.d.). Retrieved 2022, from [https://www.greencardlawyers.com/answers\\_for/H-1B\\_J-1ComparisonChart.html](https://www.greencardlawyers.com/answers_for/H-1B_J-1ComparisonChart.html)

<sup>19</sup> *All about J-1 exchange visitor visa: How to apply and what All you need to know.* *The Economic Times.* (2021, April 18). Retrieved 2022, from <https://economictimes.indiatimes.com/nri/migrate/all-about-j-1-exchange-visitor-visa-how-to-apply-and-what-all-you-need-to-know/articleshow/79773611.cms>

allows holders to pursue a green card without risking their nonimmigrant status.

That said, it isn't impossible to go off from a J- 1 to a green card. There are some ways to file an immigrant visa petition without breaching your status. Moreover, there are some obstacles that you'll have to get around. Notwithstanding, these should be handled with care and shouldn't be done without the help of an experienced immigration attorney.

The first hurdle that we'll cover is the home residency condition. This requirement obligates all but all J- 1 visa holders to return to their home country after their J- 1 status has ended and remain there for two times before pursuing any additional visas or green cards. After all, the whole idea behind the J- 1 exchange visitor program is so that you can return home and bring what you learned in the U.S. to your country.

Since returning home frequently brings complications with it, you can apply for a J- 1 visa waiver also known as a NORI certification to get around this requirement.

- ❖ There are five ways to attain this waiver. They are:
  - Through a No Objection Statement from your home country's government indicating that your home country doesn't take issue with you staying in the U.S.
  - If returning home would expose you to the menace of persecution.
  - If returning home would create extreme difficulty to you or your family.
  - Through a federal government agency that takes specific interest in you and requests your uninterrupted presence in the U.S.
  - If you get your waiver, you'll still run into problems filing your green card petition unless you can prove to the USCIS that your original intent was always to leave after your J- 1 period and that applying for your green card wasn't your plan all on. Because this can be a delicate thing to prove satisfactorily, it's advised to lean on the experience of your immigration attorney during this process.
  - Another obstacle you may need to overcome is the fact that numerous programs call off your sponsorship of you as soon as you file a petition for a green card. In some cases, this is because the sponsoring program may want to avoid developing a repute with the USCIS as a J- 1 program that can be used to get a green card. However, you may face being considered "Out of status ", which could have serious effects including being barred from coming attempts to immigrate to the U.S.

## ❖ **CONCLUSION**

- Allowance from RPO varies from state to state.
- NORI facilitates non-U.s citizens to establish their participation in the exchange program in less time as it waives off the obligation for 2 year home residency rule (HRR).
- Only an online portal for NORI is available and the physical form (offline) of the application for the J-1 waiver is currently suspended.

