

The Exchange Visitor Program

WELCOME BROCHURE

Bureau of Educational and Cultural Affairs
Private Sector Exchange
United States Department of State

The Department of State welcomes you to the United States. We are pleased to receive you as an exchange visitor. As an Exchange Visitor Program participant, you will acquire an experience in the United States and as an ambassador of your country you will help educate the American people about your home country and culture.

This brochure will help you understand the purpose of the Exchange Visitor Program and introduce you to some of the major requirements of the Exchange Visitor Program regulations that are most relevant to you.

THE EXCHANGE VISITOR PROGRAM

THE U.S. DEPARTMENT OF STATE administers the Exchange Visitor Program under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, as amended. The Act promotes mutual understanding between the people of the United States and other countries by means of educational and cultural exchange. The Exchange Visitor Program provides foreign nationals opportunities to participate in exchange programs in the United States with the expectation that on completion of their exchange program, they will return home to share their experiences.

Sponsors – The U.S. Department of State designates U.S. organizations such as government agencies, academic institutions, educational and cultural organizations, and corporations to administer exchange visitor programs. These organizations are known as sponsors. Sponsors screen and select exchange visitors to participate in their programs based on the regulations governing the exchange activity and stated in 22 CFR Part 62. Sponsors provide participants pre-arrival information, an orientation, and monitor their activities throughout their exchange program.

Sponsors offer or identify cross-cultural activities that will expose exchange visitors to American society, culture, and institutions. Exchange visitors are encouraged to participate in activities that provide them with an opportunity to share their language, culture, and history with Americans.

Responsible Officers – Sponsors appoint individuals as responsible officers and alternate responsible officers to advise and assist exchange visitors. These officers issue the Certificate of Eligibility (Form DS-2019), and conduct official communications with the Department of State and the Department of Homeland Security (DHS) on your behalf. Should you have any questions about the regulations or any aspect of your exchange program, your initial and primary contact is the sponsor. Unless provided specific contact information by your sponsor you should contact the person whose name and telephone number can be found on your Form DS-2019.

Exchange Visitor – An exchange visitor is a foreign national selected by a sponsor to participate in an exchange visitor program and who is seeking to enter or has entered the United States temporarily on a J-1 visa.

Spouse and dependents - Some categories of the Exchange Visitor Program permit a spouse and/or unmarried children, under 21 years of age, to accompany an exchange visitor to the United States. These individuals are dependents of the J-1 and may apply for J-2 visas with the permission of your sponsor.

REGULATIONS - RULES

IT IS IMPORTANT THAT YOU understand and abide by the Exchange Visitor Program regulations, U.S. laws and sponsor rules. Regular contact with your responsible officer will help you keep current of any change which may affect your J-visa status. Some requirements of the Federal regulations and where to find them are indicated below.

Register with your sponsor – Your Form DS-2019 was created in a computerized system known as the Student and Exchange Visitor Information System (SEVIS). This System is administered by the Department of Homeland Security and is used to collect and maintain information on the current status of non-immigrants and their dependents in the sponsor's program during their stay in the United States.

When you arrive in the United States, you must contact your sponsor to ensure that your data in SEVIS is accurate and updated. Failing to maintain your status could result in serious consequences and may affect your ability to remain in or return to the United States.

Activities and Program Provisions – You entered the United States in a specific program category, and are required to engage in that category and the activity listed on your Form DS-2019. You must comply with the specific program provisions of the regulations relating to your exchange category.

Insurance – You are required to have medical insurance in effect for yourself (J-1) and any dependents (J-2) for the duration of your program. Some sponsors provide the required insurance for their participants. Other sponsors may allow you to make your own arrangements or may help to identify insurance carriers. Consult with your responsible officer before the start of your program.

(a) Minimum Insurance Coverage – Insurance shall cover: (1) medical benefits of at least \$50,000 per person per accident or illness; (2) repatriation of remains in the amount of \$7,500; and (3) expenses associated with medical evaluation in the amount of \$10,000.

(b) Additional Terms – A policy secured to fulfill the insurance requirements shall not have a deductible that exceeds \$500 per accident or illness, and must meet other standards specified in the regulations.

(c) Maintenance of Insurance – **Willful failure on your part to maintain the required insurance throughout your stay in the United States will result in the termination of your exchange program.**

Maintenance of Valid Program Status – You are required to have a valid and unexpired Form DS-2019. Sponsors may terminate an exchange visitor's program for violating U.S. laws, Exchange Visitor Program regulations, or the sponsor's rules governing their particular program.

Required Notifications to Sponsors – You must inform your sponsor if you change your address (residence) or telephone number, or complete or withdraw from your exchange visitor program early. Doing so assists your sponsor in complying with their notification and reporting requirements to the U.S. Department of State and the Department of Homeland Security. Failure to keep your sponsor informed could result in the termination of your program status.

Current Regulations – The Exchange Visitor Program regulations are located in the Code of Federal Regulations, (22 CFR, Part 62). The regulations are generally available for review at the offices of your sponsor, universities, law schools, or large public libraries. They are also available on the Internet at: <http://exchanges.state.gov/education/jexchanges>

For Further Information – Additional requirements that may apply to you are set forth in the Exchange Visitor Program Regulations. Review a copy of the current regulations and consult with your responsible officer.

Contacting the Department of State – The Exchange Visitor Program is administered under the oversight of the Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs (ECA). The Office of Designation and the Office of Exchange Coordination and Compliance are located at:

Bureau of Educational and Cultural Affairs
Department of State
State Annex SA-5, Fifth Floor
Washington, DC 20522-0505

The office of Designation is organized under two divisions. The Academic and Government Programs Division, and the Private Sector Program Division. Contact information and the exchange categories for the divisions are identified below:

Academic and Government Programs Division (ECA/EC/AG)

Categories of exchange: Government Visitor, International Visitor, Professor, Research Scholar, Short-Term Scholar, Specialist, Student (College and University)

Telephone: 202 632-9310 Fax: 202 632-2701

Private Sector Program Division (ECA/EC/PS)

Categories of exchange: Alien Physician, Au Pair, Camp Counselor, Intern, Secondary Student, Summer Work Travel, Teacher, Trainee

Telephone: 202-632-2805 Fax: 202-632-2701

The Office of Exchange Coordination and Compliance is responsible for monitoring designated sponsors for regulatory compliance. Inquiries regarding sponsors and the Program can be emailed to Compliance by using JVisas@state.gov.

“BRPP”
BAN ON RPEAT PROGRAM PARTICIPATION

An individual who is participating in the J-1 Exchange Visitor Program in the Professor or Research Scholar category will be eligible for 5 years of program sponsorship. However, an individual will immediately, upon entry to the U.S. in as a J-1 Professor or J-1 Research Scholar, become subject to a 24 month bar on “repeat participation” in those categories (and only those categories), after completing or breaking the continuity of the 5 year period of eligibility.

Under the U.S. Department of State’s interpretation, the 24 month bar applies in two circumstances:

- (1) If the J-1 Professor or J-1 Research Scholar completes a full five years of program participation with one or more sponsors; or
- (2) If, before the full five-year program is over the J-1 Professor or J-1 Research Scholar “completes” his or her program. In this case, the continuity of the five-year period is broken, the five-year window is “closed,” the individual is not eligible to access the remaining unused time, and the individual must wait for 24 months before beginning a new program as a J-1 Professor or J-1 Research Scholar.

NOTE: The new 24 month bar is an independent bar. The two-year home residence requirement [commonly referred to as 212(e)] remains in place and is unchanged.

**** On the JHU/JHH medical campus, institutional policy requires that J-1 Exchange Visitors complete all time eligible to them under their J-1 program before departments may sponsor them for the H-1B1 classification.****

Two-Year Home Country Physical Presence Requirement

As a J-1 Exchange Visitor, you may be subject to the two-year home residency requirement. This requirement dictates that, if as an Exchange Visitor you have skills (or you will acquire skills in the U.S.) your home country deems “valuable”, you must return home for at least two years upon completion of your J-1 program to share those skills. The requirement ensures that the Exchange Visitor’s experience in the U. S.

The back of your form DS-2019 describes the two-year home residency requirement as follows:

Exchange Visitors whose programs are financed in whole or in part, directly or indirectly by either their government or by the U. S. Government, are required to reside in their home country for two years following completion of their program before they are eligible for immigrant status, temporary work (H) [status], or intracompany transferee (L) [status]. Likewise, if exchange visitors are acquiring [skills] which [are] in short supply in their home country (*these skills appear on the “Exchange Visitors Skills Lists”*) they will be subject to the same two-year home country residence requirement. The requirement also is applicable to alien physicians entering the U. S. to receive graduate medical education or training. (Section 212(e), Immigration and Nationality Act, PL 94-484, as amended)

However, being subject to the two-year home residency requirement does not bar you from U. S. entry once you complete your J-1 program. You can return to the United States as a tourist (B-1/B-2 visa status), as a student (F-1 visa status), or even as an exchange visitor (J-1 visa status; 12 month bar may apply). On the other hand, if you are subject, you may not enter the United States as a temporary worker (H-1B1 visa status) or apply for permanent residency until you have fulfilled the two-year home residency requirement or received a waiver of that requirement. In addition, individuals who are “subject” may not change visa status while inside the borders of the United States unless they have secured a waiver of the requirement.

NOTE: The U.S. Consulate or Embassy may make an initial determination regarding your subjectivity to 212(e) by placing an annotation on your visa stamp or form DS-2019. Please be aware that this notation is *not* binding and is not always correct. The Waiver Review Division of the U.S. Department of State has the final authority to determine an individual’s subjectivity to the requirement. In cases where there is confusion regarding an individual’s subjectivity, our office may request an Advisory Opinion from the Department of State for clarification.

If you have any additional questions about the two-year home residency requirement, please contact our office or direct your questions to the Consular Official at the U. S. Embassy or Consulate where you will secure your J-1 visa stamp.

10 Points to Remember When Applying for a Nonimmigrant Visa

1. **TIES TO YOUR HOME COUNTRY.** Under U.S. law, all applicants for nonimmigrant visas, such as student visas, are viewed as intending immigrants until they can convince the consular officer that they are not. You must therefore be able to show that you have reasons for returning to your home country that are stronger than those for remaining in the United States. "Ties" to your home country are the things that bind you to your home town, homeland, or current place of residence: job, family, financial prospects that you own or will inherit, investments, etc. If you are a prospective undergraduate, the interviewing officer may ask about your specific intentions or promise of future employment, family or other relationships, educational objectives, grades, long-range plans and career prospects in your home country. Each person's situation is different, of course, and there is no magic explanation or single document, certificate, or letter which can guarantee visa issuance. If you have applied for the U.S. Green Card Lottery, you may be asked if you are intending to immigrate. A simple answer would be that you applied for the lottery since it was available but not with a specific intent to immigrate. If you overstayed your authorized stay in the U.S. previously, be prepared to explain what happened clearly and concisely, with documentation if available.
2. **ENGLISH.** Anticipate that the interview will be conducted in English and not in your native language. One suggestion is to practice English conversation with a native speaker before the interview, but do NOT prepare speeches! If you are coming to the United States solely to study intensive English, be prepared to explain how English will be useful for you in your home country.
3. **SPEAK FOR YOURSELF.** Do not bring parents or family members with you to the interview. The consular officer wants to interview you, not your family. A negative impression is created if you are not prepared to speak on your own behalf. If you are a minor applying for a high school program and need your parents there is case there are questions, for example about funding, they should wait in the waiting room.
4. **KNOW THE PROGRAM AND HOW IT FITS YOUR CAREER PLANS.** If you are not able to articulate the reasons you will study in a particular program in the United States, you may not succeed in convincing the consular officer that you are indeed planning to study, rather than to immigrate. You should also be able to explain how studying in the U.S. relates to your future professional career when you return home.
5. **BE BRIEF.** Because of the volume of applications received, all consular officers are under considerable time pressure to conduct a quick and efficient interview. They must make a decision, for the most part, on the impressions they form during the first minute of the interview. Consequently, what you say first and the initial impression you create are critical to your success. Keep your answers to the officer's questions short and to the point.

6. **ADDITIONAL DOCUMENTATION.** It should be immediately clear to the consular officer what written documents you are presenting and what they signify. Lengthy written explanations cannot be quickly read or evaluated. Remember that you will have 2-3 minutes of interview time, if you're lucky.
7. **NOT ALL COUNTRIES ARE EQUAL.** Applicants from countries suffering economic problems or from countries where many students have remained in the US as immigrants will have more difficulty getting visas. Statistically, applicants from those countries are more likely to be intending immigrants. They are also more likely to be asked about job opportunities at home after their study in the U.S.
8. **EMPLOYMENT.** Your main purpose in coming to the United States should be to study, not for the chance to work before or after graduation. While many students do work off-campus during their studies, such employment is incidental to their main purpose of completing their U.S. education. You must be able to clearly articulate your plan to return home at the end of your program. If your spouse is also applying for an accompanying F-2 visa, be aware that F-2 dependents cannot, under any circumstances, be employed in the U.S. If asked, be prepared to address what your spouse intends to do with his or her time while in the U.S. Volunteer work and attending school part-time are permitted activities.
9. **DEPENDENTS REMAINING AT HOME.** If your spouse and children are remaining behind in your country, be prepared to address how they will support themselves in your absence. This can be an especially tricky area if you are the primary source of income for your family. If the consular officer gains the impression that your family will need you to remit money from the United States in order to support themselves, your student visa application will almost certainly be denied. If your family does decide to join you at a later time, it is helpful to have them apply at the same post where you applied for your visa.
10. **MAINTAIN A POSITIVE ATTITUDE.** Do not engage the consular officer in an argument. If you are denied a student visa, ask the officer for a list of documents he or she would suggest you bring in order to overcome the refusal, and try to get the reason you were denied in writing.

Reasons for Visa Denial

NOTE: Canadian citizens do not need a visa stamp in their passport; they only need to present their DS2019 or I-20 at the port of entry.

The most common reason for a denial of a nonimmigrant visa (NIV) is 214(b). “every alien...and other than a non-immigrant described in any provision...shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers at the time of application for admission...”

This means that an applicant applying for an F1 or J1 visa must convince the consular officer that he intends, at that time of application, to leave the US after completion of the program. This does not mean that is the student’s situation or plans change that the student has committed visa fraud. The department of State has recognized that student’s plans do change. (September 2005 Visa Policy Telegram concerning “Students and Immigrant Intent” at http://travel.state.gov/visa/laws/telegrams_2737.htm. However, if the student’s initial intent is to immigrate to US, s/he is ineligible for an NIV.

Another reason that a visa may be delayed is a finding based on Section 221(g). In this case, the interviewing officer has found that the information provided at the interview will support neither issuance nor denial—the application is held open for a year, or even more if the delay is occasioned by USG delay, as opposed to delay or noncompliance by the applicant. This situation may be fairly simple to resolve by providing the missing documentation. Overcoming a finding based on 221(g) requires another visit—sometimes with, sometimes without appointment, depending on the US mission--but, happily, no new application fee.

Other reasons for visa denials include health related issues such as TB, HIV/AIDS, etc, criminal background, security risk, previous illegal entrance to US or immigration status violations previously removed from the U.S., and unlawful voters. For more specific information see http://travel.state.gov/visa/frvi/ineligibilities/ineligibilities_1364.html.

Security Clearances:

A visa may be denied or delayed based on required security clearances. Security clearances are required when a visa applicant's personal background or course of study is considered a potential threat to U.S. national security. There are many types of clearances (e.g. Visa Mantis Condor), and each depends on different factors. The important point to emphasize to students and scholars is that these clearances are obligatory and not subject to the officer's discretion. U.S. immigration regulations require that a consular officer gather certain information from a student visa applicant sometimes beyond what was originally submitted in the visa application. State Department headquarters in Washington, D.C. then receives this information and reviews with other government agencies before issuing an approval to the referring U.S. post. On average it now takes approximately six weeks for a student visa applicant who has been identified for a security clearance to receive D.C.'s decision. This period of time, while lengthy, improves on the several months-long wait that was routine immediately after Sept. 11, 2001. Further, the overwhelming majority of applications referred to D.C. for security clearances are recommended for visa approval.

When an applicant is informed that he or she must await additional processing, s/he should make clear exactly where and when s/he can be contacted in case more questions arise either from the U.S. post or from anyone in D.C. Phone numbers and e-mail addresses should be volunteered both by a student and anybody of interest to the application, such as the school advisor. This information is practically the only thing that a student or scholar can do to ensure the speediest processing possible. Requests to expedite the security clearance process are rarely granted and only when it is believed to be in the national interest, eg for a head of a foreign state to come to the UN General Assembly. If however, the visa applicant or the school thinks there is a compelling reason to inquire why an application has been held up longer than six weeks, then an elected U.S. representative might be contacted as explained in further detail below.

Finally, a visa applicant who finds himself subject to a security clearance should be encouraged to make travel plans that do not compel his entry to the U.S. during his wait. In other words, if he knows he will have to wait up to six weeks outside the U.S., then he should make lodging and flight arrangements to accommodate that period of time. Even better, one who advises international students or scholars should inform their prospective visa applicants even before they formally apply that a security clearance may be required at their interview.

WHAT DOES IT MEAN TO BE ADMITTED TO THE UNITED STATES?

by

Sarah K. Peterson Stensrud & Robert D. Aronson n*

The United States immigration process consists of a series of interrelated, separate steps. To be in the United States legally, most foreign nationals focus on qualifying for non-immigration status or qualifying for permanent resident status. What is often overlooked is the application for admission to the United States, which is a legal procedure that occurs when a foreign national crosses the border to enter the United States.²

In a digital age, requirements for admission to the United States continue to change. More importantly, expanding technological capabilities greatly enhance the U.S. Government's ability to monitor and track foreign nationals entering the United States. The stakes for successfully navigating the admissions process are high since a foreign national can be either delayed unduly at the port of entry or denied admission altogether, which then becomes part of a foreign national's permanent immigration record.

This piece explores the application for admission a foreign national makes when trying to enter the United States: what admission means, who is involved in the admissions process, the Custom and Border Patrol's (CBP) considerations when reviewing the application for admission, a foreign national's rights during this process, grounds of inadmissibility, what documents a foreign national must present to be admitted to the United States, and the registration steps a foreign national must undertake either before being admitted to the United States or upon departure from the United States. This piece does not address the admission that occurs when a foreign national adjusts to permanent resident status. At the end of this piece we present our thoughts on how to maximize the chances that admission to the United States will go smoothly and successfully.

WHAT IS ADMISSION TO THE UNITED STATES?

Every person entering the United States, except U.S. citizens, must make a formal application for admission.³ Most frequently, the admission application is the inspections and entry process at the port of entry every time a foreign national – either an immigrant or non-immigrant – enters the United States.

When admitting a foreign national to the United States, a CBP officer makes determinations: 1) whether the foreign national's purpose for entering the United States matches the visa classification; and 2) if

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The information in this article is of a general nature and is provided as a courtesy. It should not be relied on as legal advice for specific cases. Receiving or reading this article does not create an attorney-client relationship between the reader(s) and Aronson & Associates, P.A. or between the authors and foreign national. As the information herein presented should make amply clear, sound immigration advice can only be provided after careful review of a potential client's facts and the creation of a formal attorney-client relationship.

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² A foreign national is also formally admitted to the United States when the USCIS approves an application for permanent resident status for the foreign national. Matter of Rosas, 22 I&N Dec. 616 (BIA 1999).

³ INA § 235(a)(3); 8 C.F.R. § 235.

there are any problems related to the foreign national's character or background that disqualifies him from entering the United States.

Since 1996, our immigration laws have distinguished between *entry* into the United States and *admission* to the United States. ⁴ Admission to the United States is more than mere entry into the United States (i.e., physical presence in this country); rather, admission gives a foreign national, after inspection by the U.S. CBP Officer, the legal right to enter the United States and remain eligible for future immigration benefits. ⁵

What U.S. Government Agencies are involved in the Admissions Process?

There are two federal agencies involved in the admissions process: The U.S. Department of State (DOS) and the U.S. Customs and Border Protection (CBP). The DOS is the government agency responsible for issuing visas ⁶ through U.S. Consulates abroad. The CBP, an agency of the U.S. Department of Homeland Security (DHS), is the agency responsible for determining whether the purpose of the foreign national's specific trip corresponds to the general authorization embedded in the visa. The CBP determines whether the foreign national fulfills all legal requirements to be admitted to the United States.

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When Does the Application for Admission Begin?

The admissions process starts when a CBP Officer inspects a foreign national at a U.S. port of entry. The purpose of this inspection is twofold: 1) to determine if the foreign national's trip corresponds with his visa; and 2) to determine if there are any grounds that make the foreign national inadmissible – i.e., not allowed entry to the United States. If a nonimmigrant passes inspection, the CBP Officer admits him to the United States and denotes the appropriate duration of stay on the I-94 card. ⁸ A foreign national who is admitted to the United States remains eligible for future immigration benefits. Conversely, a foreign national who enters the United States without inspection by a CBP Officer has not been properly admitted and is thereby subject to detention, removal, and possible bars from entering the United States in the future.

What are CBP's Options in Deciding Whether to Admit a Foreign National?

A CBP Officer has the following options when adjudicating a foreign national's application for admission:

DETERMINE THAT ALL REQUIREMENTS FOR ADMISSION HAVE BEEN SATISFIED AND ADMIT THE FOREIGN APPLICANT TO THE UNITED STATES;

Refer the case to Secondary Inspection for further review; ⁹

⁴ Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub.L. 104-208 (IIRIRA) (Sept. 30, 1996).

⁵ INA §235; 8 C.F.R. § 235.

⁶ A visa is a travel document that authorizes a foreign national to travel to the United States to present herself for lawful admission.

⁷ Two other immigration agencies fall under DHS's umbrella: The U.S. Immigration and Customs Enforcement (ICE), responsible for enforcing U.S. Immigration Laws, and U.S. Citizenship and Immigration Services (USCIS), responsible for granting immigration benefits.

⁸ Certain Canadian and Mexican Citizens who are visiting the U.S. are exempt from receiving an I-94 Card. *See*, 8 C.F.R. 235.1(f). Moreover, even though permanent residents must be admitted they do not receive I-94 cards.

⁹ Secondary Inspection is a more extensive determination of admissibility normally conducted in a private room at the port of entry.

Defer a final decision on admission by paroling the foreign national into the United States and instructing the foreign national to appear at a Deferred Inspection hearing. (While the foreign national is physically in the United States in this parole status, he has not yet been legally admitted);
Deny admission to a foreign national. Airline carriers are liable for the return cost of transportation in this situation which is why airlines are quite thorough in inspecting travel documents at the port of origination;
10 or,
Place the foreign applicant in removal proceedings. 11

What Rights and Responsibilities Does a Foreign National Have During the Admissions Process?

At the time of admission, the foreign national bears the burden of convincing the CBP Officer that he “clearly and beyond a doubt” qualifies for admission into the United States. 12 Moreover, a foreign national does not have the right to an attorney during the admissions process. If the foreign national encounters problems during the admissions process, his only recourse is to request to speak with a supervisor whose primary purpose is to assist travelers. 13

If a foreign national is placed in a removal hearing, he has “the privilege of being represented” by an attorney *at his own expense*. 14 So although a foreign national may have an attorney present in a removal hearing, the U.S. government will not pay for these legal services. In certain instances, if a foreign national has a valid visa but was denied admission, a foreign national can request a hearing before the immigration Court. However, determinations made for visa waiver applications are final, as are determinations made on cases involving fraud, willful misrepresentation, and the lack of a valid immigrant visa for an intending immigrant.

Concept of “Grounds of Inadmissibility.”

Perhaps the most confusing yet important determination made during the admissions process is whether the foreign national is “admissible” to the United States. Even if the intended purpose of his trip corresponds with the terms of his visa, the foreign national may still be denied admission if there is some abnormality that disqualifies him from entering the United States. Although the list of grounds for inadmissibility may vary depending on the type of visa status sought, the following is a list of the most common grounds:

HEALTH-RELATED GROUNDS: THIS GENERALLY RELATES TO CONTAGIOUS DISEASES SUCH AS TUBERCULOSIS, AIDS/HIV, ETC. 15

¹⁰ INA § 235(b)(1)(A)(i).

¹¹ Procedurally, the DHS must officially “charge” the foreign national by issuing a “Notice to Appear.” The foreign national then appears before an Immigration Judge and can appeal the decision to the Board of Immigration Appeals. For more information, *see Immigration Court Process in the United States*, U.S. Department of Justice, Executive Office for Immigration Review, News Release, April 28, 1005, at <http://www.usdoj.gov/eoir/press/05/ImmigrationCourtProcess2005.htm>, last visited September 27, 2006.

¹² 8 C.F.R. § 1240.8(b). The United States Supreme Court held that a foreign national who “seeks admission to this country may not do so under any claim of right. Admission of aliens to the United States is a privilege granted by the sovereign United States Government only upon such terms as [it] shall prescribe.” *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 70 S. Ct. 309 (1950).

¹³ http://www.cbp.gov/xp/cgov/travel/customerservice/pledge_travel.xml, last visited September 27, 2006.

¹⁴ INA § 292.

¹⁵ INA § 212(a)(1).

PREVIOUS CRIMINAL ACTIVITY: THIS GENERALLY RELATES TO THE COMMISSION OF VARIOUS CRIMES, INSTANCES OF MULTIPLE CONVICTIONS, DRUG TRAFFICKERS, PROSTITUTION, TRAFFICKING, ETC. 16

Security-related grounds: this refers to terrorist activities, a definition that has grown considerably since 9/11; 17

Public Charge: this relates to instances in which a foreign national appears unable to financially support himself in the United States; 18

Work-Related Abnormalities: this refers to employment-based cases which lack an approved labor certification application or lack the proper credentialing for various healthcare workers; 19

Immigration Violators: this refers to instances in which a foreign national may have previously violated his immigration status. Most commonly this involves foreign nationals with substantial periods of unlawful presence or foreign nationals trying to reenter the United States prematurely following a final removal order; 20

Documentation Irregularities: this occurs when a foreign national fails to hold a valid passport or any other immigration-related document; 21 or,

Unlawful Voting. Because only United States Citizens are legally authorized to vote, lawful permanent residents who vote in U.S. elections are inadmissible. 22

It is important to know that despite these grounds of inadmissibility, waivers are available in certain instances. 23

Non-Immigrant Admissions.

U.S. immigration laws *presume* that all non-immigrants have immigrant intent, or the intent to remain permanently in the United States. 24 Yet most non-immigrant categories require that the foreign national intend to stay temporarily in the United States and that following this temporary stay, will depart the United States. 25 As such, the burden is on the foreign national to convince both the Consular Officer (at the time of application for a visa) and the CBP Officer (at the time of application for admission at a port of entry) that he does not intend to stay in the United States permanently. If the foreign national fails to convince the Consular Officer and / or the CBP Officer that he intends to remain in the United States on a temporary basis, it is grounds to deny the visa and / or deny admission to the United States.

WHAT DOCUMENTS MUST A FOREIGN NATIONAL PRESENT FOR ADMISSION TO THE UNITED STATES?

¹⁶ INA § 212(a)(2).

¹⁷ INA § 212(a)(3).

¹⁸ INA § 212(a)(4).

¹⁹ INA § 212(a)(5).

²⁰ INA § 212(a)(6).

²¹ INA § 212(a)(7).

²² INA § 212(a)(10).

²³ INA § 212(d).

²⁴ INA § 214(b).

²⁵ Certain non-immigrant categories, such as H and L, allow dual intent. This means that foreign nationals seeking admission in H or L nonimmigrant status need not convince the Consular Officer and / or CBP officer that they have non-immigrant intent, or the intent to remain in the United States for a finite and temporary period. INA § 214(b).

A foreign national must present several documents when applying for admission to the United States. Most frequently, these documents include a valid passport, a visa, and an I-94 Card.

PASSPORT

A foreign national must have a valid passport. 26 Foreign nationals entering in non-immigrant status must have a passport valid for six months beyond the period of intended admission. 27 Foreign nationals with immigrant visas must have a passport valid for 60 days beyond the expiration of the immigrant visa, although there are some exceptions to this general rule. 28 If a passport is not valid for the required period, a CBP Officer has the authority to either grant entry but shorten the length of stay or deny entry altogether. In certain circumstances, if a foreign national lacks the proper passport validity period upon entry, he may make an application for waiver of Passport and / or Visa requirement by completing a form and paying a fee. 29

Periodically the U.S. Department of State publishes a table of Foreign Passports Recognized for Extended Validity. 30 If the passport is valid at the time of presentation, the United States considers the passports of nationals from these listed countries automatically valid for six months *beyond* the actual expiration date. 31

In the past, citizens of the United States, the Caribbean, Bermuda, Panama, Mexico and Canada traveling between these countries were not required to present a passport to be admitted to the United States. However, the United States Department of State recently implemented the Western Hemisphere Travel Initiative (WHTI) which changes long-standing travel requirements for travelers seeking admission to the United States from the Americas, the Caribbean, and Bermuda. Starting January 8, 2007, citizen travelers from the Caribbean, Bermuda, Panama, Mexico and Canada seeking entry into the United States via air or sea must produce a passport to be admitted to the United States. 32 Even U.S. citizens must present valid passports when returning from trips abroad. 33 On January 1, 2008, this passport requirement extends to all entries via land. 34

VISA

A visa is a stamp issued by a United States Consular Office abroad and placed in a foreign national's passport. A visa signifies that a foreign national is eligible to apply for admission to enter the United States for a specific purpose and specific period. A visa does not automatically guarantee that a foreign national will be admitted to the United States. Rather, the dates listed on the visa is the period during which the foreign national may use the visa to make an application for admission to the United States. 35

²⁶ Certain Canadian Citizens are exempt from this requirement. *See*, 8 C.F.R. § 212.1(a)(1).

²⁷ INA § 212(a)(7)(B)(i).

²⁸ INA § 212(a)(7)(A); 8 C.F.R. § 211.2(a).

²⁹ Form I-193 with a \$265 filing fee. *See*, 8 C.F.R. § 211.2(b).

³⁰ *See*, Foreign Affairs Manual (FAM) 41.104 Exhibit 1, for a current list of countries.

³¹ *Id.*

³² *See*, http://travel.state.gov/travel/cbpmc/cbpmc_2223.html, last visited September 27, 2006. Although the U.S. CBP may accept other secure, accepted documentation that establishes the bearers' nationality and identity, the details regarding acceptable documentation remain undefined.

³³ The only exception is for trips made to the U.S. Virgin Islands and Puerto Rico.

³⁴ *See*, http://travel.state.gov/travel/cbpmc/cbpmc_2223.html, last visited September 27, 2006.

³⁵ 22 C.F.R. § 41.112(a).

To obtain a visa, a foreign national must make an appointment at a U.S. Consulate abroad. Each Consulate follows unique visa issuance procedures. Generally these procedures require a foreign national to appear for an interview, give fingerprints, take a digital photo, and pay a fee. A foreign national should check the U.S. Department of State website to obtain details on a specific Consulate's procedures. 36

Visa Exemptions

Nationals of certain participating countries qualify for the Visa Waiver Program (VWP). 37 Nationals of VWP countries 38 are not required to obtain a visa to apply for admission to the United States, or other participating countries, if they intend to enter the participating country for less than 90 days for business or pleasure and have a round-trip airline ticket. 39 However, Congress passed the USA-PATRIOT Act that requires all VWP travelers have a machine-readable passport. 40 If a passport does not conform to United States machine-readable requirements, nationals of participating VWP countries may be required to obtain a visa. To ensure that a VWP traveler remains visa exempt, he should always confirm with the passport-issuing authority in his country to confirm that he possesses a machine-readable passport.

A foreign national who has an expired visa stamp in a valid passport may be able to travel to a "contiguous territory" for 30 days or less and return to the United States without first obtaining a new visa prior to re-entry. To re-enter the United States, the foreign national must present a valid passport, I-94 card, and expired visa. 41 Nationals of Iran, Syria, Libya, Sudan, North Korea, or Cuba are ineligible for this benefit and must obtain a valid visa before applying for admission to the United States. This benefit becomes void if, while outside of the United States, the foreign national applied for a visa but was denied. 42

I-94 CARD

Airlines and CBP Officers at ports of entry provide all foreign nations, except U.S. Permanent Residents, the appropriate form to complete for admission to the United States. This form is the I-94, Nonimmigrant Visa Waiver Arrival / Departure Form (I-94W for VWP travelers). The I-94 requests general data and an address at which the foreign national will stay while in the United States. It is the foreign national's obligation to notify the U.S. Citizenship and Immigration Service (USCIS) within 10 days of any change in address by submitting form AR-11 to the USCIS.

³⁶ See, <http://usembassy.state.gov/>, last visited September 27, 2006.

³⁷ INA §217(a); 8 C.F.R. §217.2.

³⁸ At time of publication, the following 27 countries are part of the visa waiver program with the United States: Andorra, Iceland, Norway, Australia, Ireland, Portugal, Austria, Italy, San Marino, Belgium, Japan, Singapore, Brunei, Liechtenstein, Slovenia, Denmark, Luxembourg, Spain, Finland, Monaco, Sweden, France, the Netherlands, Switzerland, Germany, New Zealand, and the United Kingdom. See, http://www.travel.state.gov/visa/temp/without/without_1990.html#2, last visited September 27, 2006.

³⁹ INA §217(a); 8 C.F.R. §217.2.

⁴⁰ A machine-readable passport contains two lines of data on the biographical page, similar to a bar code. For an example of a machine-readable passport, see, http://www.travel.state.gov/visa/temp/without/without_1990.html#4, last visited September 27, 2006.

⁴¹ 22 C.F.R. § 41.112(d).

⁴² U.S. Consulates abroad notate a visa denial on the back page of a passport, using indelible ink. See, March 14, 2002 cable by Secretary of State Colin Powell, AILA infonet Doc. No. 02040432.

For air and sea entry, the I-94 card is for single entry. 43 For land entrants, the I-94 card is valid for multiple entries. 44 The I-94 card is significant in that it is the foreign nationals proof of legal eligibility to remain in the United States. A foreign national should retain a copy of all I-94 cards issued to him.

How Do I Know if I have Been Lawfully Admitted?

For non-immigrants, if the CBP Officer is convinced, after inspection, of the legitimate nature of the application for admission, the CBP Officer will notate the appropriate immigration status on the I-94 card, along with the duration of stay granted to the foreign national. The CBP Officer will staple the I-94 card in the foreign nationals passport. It is important that the immigration status and period of stay noted on the I-94 match the data on the corresponding visa because the I-94 card becomes the foreign nationals proof of legal eligibility to remain in the United States (i.e., it shows that a foreign national was properly admitted to the United States).

Every lawful permanent resident (LPR) must be admitted into the United States. If the CBP Officer is convinced, after inspection, that a LPR is admissible, he will be admitted into the United States. If the CBP Officer deems a LPR is inadmissible, the CBP Officer will defer a LPR to secondary inspection or parole the LPR into the United States for a deferred inspection hearing.

Registration Requirements For Admission to and Exit from the United States.

US-VISIT

On January 5, 2004, the United States Department of Homeland Security implemented US-VISIT. 45 This is a data-collection program aimed at eliminating immigration fraud. US-VISIT currently applies to all non-immigrant foreign visitors between the age of 14 and 79, although there are a few exemptions. 46 US-VISIT currently exists at 115 airports, 15 seaports, and in secondary inspection areas of 154 land ports.

US-VISIT begins when a foreign national applies for a visa at a United States Consular Office abroad. Before receiving a visa, a foreign national provides biometric information, including two digital finger scans and a digital photograph. This information is embedded in the visa so that when the foreign national applies for admission at a United States port of entry, new biometric information is collected and matched with the biometric information embedded in the visa. This allows the CBP Officer at the port of entry to confirm the person applying for admission is the same person who applied for the visa.

US-VISIT recently implemented a pilot program for taking biometrics information at ports of exit. Currently, twelve airports have US-VISIT exit kiosks. 47 These US-VISIT exit kiosks scan a foreign nationals passport, take a finger scan of the left and right index fingers, take a digital photograph, and issue a receipt confirmation for a foreign national to present to the airline before boarding. Ultimately the Department of Homeland Security will implement this US-VISIT exit procedure at all airports.

⁴³ 8 C.F.R. §235.1(f)(1)

⁴⁴ *Id.*

⁴⁵ Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, §110 (IIRAIRA); INS Data Management Improvement Act, P.L. 106-215 (DMIA).

⁴⁶ For a list of exemptions, *see*, http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0527.xml, last visited September 27, 2006.

⁴⁷ At time of publication, these airports include: Baltimore/Washington International; Chicago O'Hare International; Dallas/Fort Worth International; Denver International; Detroit Metropolitan Wayne County International; Fort Lauderdale-Hollywood International; Hartsfield-Jackson Atlanta International; Luis Muñoz Marin International in San Juan, Puerto Rico; Newark Liberty International; Philadelphia International; San Francisco International; Seattle-Tacoma International.

If a foreign national is flying out of the United States from one of the US-VISIT exit airports, he should register at the US-VISIT kiosk. Although the DHS has stated that the US-VISIT exit program is voluntary, on a practical level, failure to register prevents DHS from confirming whether and when a foreign national left the United States. DHS might then assume that a foreign national never left or overstayed the terms of her immigrant status. Thus, if a foreign national is departing the United States from one of the pilot airports with US-VISIT exit kiosks, he should find the US-VISIT Kiosk and register. If a foreign national is unable to register, he should retain as much supporting documentation as possible to present at re-entry to document when and where he left the United States. Failure to register may result in a violation of the terms of admission or ineligibility to obtain a visa in the future. 48

Currently the following categories of foreign national visitors are exempt from US-VISIT 49:

Visitors admitted on an A-1, A-2, C-3, G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, or NATO-6 visa;

Children under the age of 14 & Persons over the age of 79;

Classes of visitors the Secretary of State and the Secretary of Homeland Security jointly determine shall be exempt;

A foreign national visitor the Secretary of State and the Secretary of Homeland Security or the Director of Central Intelligence Agency jointly determine shall be exempt;

Taiwan officials who hold E-1 visas and members of their immediate families who hold E-1 visas;

United States Citizens;

United States Legal Permanent Residents;

There are special requirements for Canadian 50 and Mexican 51 citizens.

On July 27, 2006, the United States Department of Homeland Security released proposed regulations that, if enacted, will expand the US-VISIT requirement to almost all foreign visitors, including U.S. Legal Permanent Residents. 52 As of the date of this article's publication, these proposed regulations have not yet been enacted into law.

NATIONAL SECURITY ENTRY / EXIT SYSTEM (NSEERS)

The National Security Entry / Exit Systems, or NSEERS, is a data collection program required of certain foreign nationals. 53 Although DHS can impose NSEERS on anyone, DHS currently only requires certain nationals of Iran, Iraq, Libya, Sudan, and Syria to register upon their first entry into the United States. 54 A foreign national who registers with NSEERS receives a Fingerprint Identification Number, or FIN, notation on his I-94 Card and a notation of Special Registrant (SR). If a foreign national complies with NSEERS upon entry to the United States, he must also do it upon exit of the United States. Finally, if a foreign national complies with NSEERS, it is not necessary to also do US-VISIT. However, compliance with US-VISIT does not fulfill NSEERS requirements.

⁴⁸ 8 C.F.R. §215.8(b).

⁴⁹ 8 C.F.R. 235.1(d)(1)(iv).

⁵⁰ http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0695.xml, last visited September 27, 2006.

⁵¹ http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0696.xml, last visited September 27, 2006.

⁵² See, <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/E6-11993.htm>, last visited September 27, 2006.

⁵³ 8 C.F.R. § 264.1(f)(1).

⁵⁴ <http://www.ice.gov/pi/specialregistration/index.htm>, last visited September 27, 2006.

Helpful Tips for the Admission Process

Each year, thousands of foreign applicants are turned away at the border of the United States and countless more are delayed unduly during the admissions process. The following are tips to make the admissions process go smoothly and quickly:

UNDERSTAND THE IMMIGRATION STATUS YOU ARE REQUESTING. EACH NON-IMMIGRANT VISA AUTHORIZES SPECIFIC ACTIVITIES IN THE UNITED STATES, SUCH AS SPECIFIC WORK AUTHORIZATION, STUDENT STATUS, CASUAL VISITS, ETC. UNDERSTAND THE TYPE OF VISA YOU POSSESS AND MAKE SURE THAT YOU CAN PROVE THAT YOUR SPECIFIC REASON FOR COMING TO THE UNITED STATES MATCHES THE VISA OR AUTHORIZATION PRESENTED TO THE CBP OFFICER.

Understand That it is Your Responsibility to Persuade the CBP Officer. The burden is on the foreign applicant to establish eligibility for admission. The CBP Officer need not prove why you are inadmissible.

Check Your Documents. You need certain documents to present yourself for admission to this country – i.e., a valid passport, a valid visa (unless visa exempt), and possibly an approved petition. Make sure that your documents are in order.

Check your I-94 Card. Once satisfied with your application, the CBP Officer will issue a completed I-94 card to you (unless you are a lawful permanent resident). The I-94 card establishes the basic terms and conditions of your lawful non-immigrant status in the United States. Mistakes happen, so check over the spelling of your name, the dates of your authorized stay, your visa status, etc. It is far easier to correct mistakes at the port of entry rather than trying to fix at a later date.

Be Professional and Courteous. Most CBP Officers are not interested in setting traps for the unwary. It is worthwhile to be polite in your communications with the CBP Officers since the initial admission decision is discretionary. If your papers are in order, have confidence in your legitimate reason for admission to the United States.

If problems develop, ask to speak with a Supervisor. If things get off-track for whatever reason, ask to see the supervisor. The supervisor's main responsibility is to help travelers clear the CBP inspection. Oftentimes Supervisors know the law to a greater degree than the initial CBP Officer.

Conclusion

Lawful admission to the United States is an important, and somewhat complex step in every foreign national's travel to the United States. Because a foreign national does not have legal counsel present at the time of admission, it is always prudent to check with immigration counsel well in advance of leaving the United States to ensure full compliance with admissions requirements upon entry.

FACT SHEET

ARRIVING AT A U.S. PORT OF ENTRY ... WHAT AN EXCHANGE VISITOR CAN EXPECT

U.S. Immigration and Customs Enforcement's **Student and Exchange Visitor Program (SEVP)** is committed to facilitating your stay in the United States while you take advantage of our nation's academic, educational, and cultural offerings. To enhance security without slowing legitimate travel, the Department of Homeland Security (DHS) has instituted some changes in U.S. entry and exit procedures. Careful planning and preparation by international students can ensure that any delay based on these procedures is minimal.

PLAN YOUR ARRIVAL

Exchange Visitors are prohibited from entering the United States more than 30 days in advance of the program start date identified in Item 3 of the DS 2019. Some Exchange Visitors Program sponsors may restrict early entry to less than 30 days. Please check with you sponsor for specific requirements.

ALWAYS HAND CARRY YOUR DOCUMENTS

Do not check the following documents in your baggage. If your baggage is lost or delayed, you will be unable to present the documents at your port of entry. As a result, you may not be able to enter the United States.

1. **Your passport, valid for at least six months beyond the date of your expected stay and**
2. **If re-entering the United States, the DS-2019.**

In addition, it is strongly recommended that you also hand carry the following documentation:

1. Evidence of financial resources;
2. Letter of acceptance as a participant in the Exchange Visitor Program;
3. Paper receipt for the SEVIS fee, Form I-797; and
4. Name and contact information for your sponsoring organization, including a 24-hour emergency contact number.

For greater detail on procedures for traveling and arriving in the United States, visit: <http://educationusa.state.gov/predeparture/travel/customs.htm>

COMPLETE YOUR ENTRY PAPERWORK

If Arriving By Air: Flight attendants will distribute Customs Declaration Forms (CF-6059) and Arrival- Departure Record Forms (I-94). These must be completed prior to landing.

If Arriving By Land or Sea: The CBP Officer at the port of entry will provide the necessary Customs Declaration Forms (CF-6059) and Arrival-Departure Record Forms (I-94) to be filled out upon your arrival.

AS YOU ARRIVE AT THE PORT OF ENTRY

Proceed to the terminal area for arriving passengers. Have the following documents available for presentation: your passport; the sealed envelope that contains your DS-2019; Arrival-Departure Record Form (I-94); and Customs Declaration Form (CF-6059). The Form I-94 should reflect the address where you will reside, not the address of the program.

All visitors entering the United States must state their reason for wishing to enter the country. You will also be asked to provide information about your final destination. **It is important that you tell the CBP Officer that you will be an exchange visitor.** Be prepared to include the name and address of the school program where you will enroll/participate.

Once your inspection is successfully completed, the inspecting officer will:

- **Stamp your SEVIS Form for duration of status (“D/S”) for J visa holders with date and port of entry**
- **Stamp the Arrival-Departure Record Form (I-94) and staple it in the passport**

FOLLOWING ADMISSION INTO THE UNITED STATES

Exchange Visitors must report to their Exchange Visitor Program sponsor within 30 days of the program begin date identified in line 3 of the DS 2019 to have their participation in the program activity validated. Exchange Visitors in programs beginning with “G” listed in item 2 of the DS 2019, and who are being sponsored for less than 30 days, must have their sponsor validate their participation prior to the end date listed in Item 3 of the DS 2019. Failure to have participation validated will result in an automatic invalidated SEVIS record.

ADDITIONAL INFORMATION

SECONDARY INSPECTION REQUIREMENTS

If the CBP officer at the port of entry cannot initially verify your information or you do not have all of the required documentation, you may be directed to an interview area known as “secondary inspection.” Secondary inspection allows inspectors to conduct additional research in order to verify information without causing delays for other arriving passengers.

The CBP officer will first attempt to verify your status by using the Student and Exchange and Visitor Information System (SEVIS). In the event that the CBP officer needs to verify your admission/participation with your sponsor **we strongly recommend** that you have the **name and telephone number of your J-1 Exchange Visitor Program sponsor available**. In the event you arrive during non-business hours (evenings, weekends, holidays), you should also have the emergency phone number.

Failure to comply with U.S. government entry-exit procedures may result in your being denied entry to the United States. Under certain circumstances, the CBP officer may issue a “Notice to Student or Exchange Visitor” Form (I-515A), which authorizes temporary admission into the United States. Work with your program sponsor to submit proper documentation without delay.

US-VISIT

All nonimmigrant visitors holding visas-regardless of race, national origin, or religion -participate in the US-VISIT, a comprehensive registration tracking system for entries to and exists from the United States. The program involves obtaining a scan of two index fingerprints and a digital photograph. For more information: www.dhs.gov/xnews/releases/press_release_0305.shtm

ICE

U.S. Immigration and Customs Enforcement is the largest investigative arm of the Department of Homeland Security.

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http://www.ice.gov/sevis/factsheet/100104ent_exchng_fs.htm

SEVIS FEE FOR INCOMING INTERNATIONALS ON F & J VISAS

As of September 1, 2004, all applicants for F and J visas coming to participate in a Johns Hopkins University: Medical Institutions sponsored program will be required to pay a \$200 fee for F1 students and \$180 fee for J1 Exchange Visitors to the U.S. Department of Homeland Security (in addition to any other visa application fees charged by the U.S. consulate/embassy). This fee must be paid directly to the Department of Homeland Security using a Form I-901 before any visa stamp application will be accepted at a U.S. consulate or embassy.

In order to pay the fee prior to visa stamp application, applicants have the following options:

- (1) Pay via the internet using a credit card. The U.S. Department of Homeland Security has set up a website on the internet to accept electronic payments. Go to <http://www.fmiffee.com> and follow the instructions.
- (2) Submit a Form I-901 with fee payment directly to the U.S. Department of Homeland Security via postal service and wait for the U.S. Department of Homeland Security to update SEVIS and mail a receipt to you in your home country. The Form I-901 became available at <http://www.ice.gov/graphics/sevis/> on September 1, 2004. Mailing instructions will be given on the form.
- (3) Pay using local currency through Western Union Quick Pay™. See http://www.ice.gov/graphics/sevis/i901/wu_instr.htm for detailed instructions. You will need to submit the I-901 data at the time of payment but the properly completed Western Union receipt serves as immediate proof-of-payment for a visa interview at a U.S. consulate and for admission at a U.S. port of entry. This option is available in any country where Western Union offers its Quick Pay™ service.

In some instances, a third party (such as a family member or sponsor with a credit card) may cover your fee on your behalf. However, regardless, you must be able to show a receipt to the U.S. consulate or embassy in order to make an application for an F or J visa stamp.

We have included additional information on common questions concerning the SEVIS fee with this memo. Please read it and all the enclosed information carefully.

SEVIS Fee Q & A
for F-1 and J-1 Applicants
for Johns Hopkins University: Medical Institution Programs

What is the SEVIS fee?

This SEVIS fee is required of all foreign nationals who come to the United States for the purpose of pursuing a full course of study or research training in institutions such as colleges, universities, and language training programs. It is payable one time for each single educational program in which an F-1 or J-1 participates, extending from the time the applicant is granted F-1 or J-1 status to the time the applicant falls out of status, changes status, or departs the U.S. for an extended period of time.

This fee is new and goes into effect September 1, 2004. SEVIS fee payments will be used by the United States Department of Homeland Security to fund the Student and Exchange Visitor Program. This program makes it possible for international students and exchange visitors to attend schools in the United States. The fee also funds the Student Exchange Visitor Information System (SEVIS), a computer system employed to track international students and exchange visitors during their stays in the United States.

Who must pay the SEVIS fee and when?

You will need to pay the SEVIS fee if you were issued a Form I-20 or Form DS-2019 on or after September 1, 2004 AND one of the following conditions applies:

- 1) You are seeking an F-1 or J-1 visa from a United States embassy or consulate for first-time attendance in a degree program or research program. In this case, the SEVIS fee must be paid BEFORE visa issuance.
- 2) You hold a valid F-1 or J-1 visa, you have been absent from the United States for a period of more than 5 months (not working on your studies during this time with the prior approval of your school), and you will re-enter the U.S. for a new program. In this case, the SEVIS fee must be paid BEFORE re-entry to the U.S.

NOTE: If you are a citizen of Canada or a resident of a contiguous territory or adjacent island (and therefore exempt from visa stamp requirements) and you still plan to apply for admission at port-of-entry to begin initial attendance at a U.S. school in F or J classification, you still must pay the fee before entry to the U.S. You will have to secure a receipt of fee payment by following the guidelines above and show that receipt at the U.S. Port of Entry.

F-2 and J-2 visa holders, the spouse and dependents of respective F-1 and J-1 visa holders, are not required to pay the SEVIS fee.

How much is the SEVIS fee and how do I pay it?

The SEVIS fee is US \$200 for F1 students and \$180 for J1 Exchange Visitors. This fee is separate from and in addition to the visa application fee. The SEVIS fee must be paid by the Internet or by mail. It cannot be paid at a U.S. embassy or consulate and it cannot be paid at port of entry.

You have three options to pay the SEVIS Fee:

- 1) Electronically, by completing a form I-901 through the Internet and using a Visa, MasterCard, or American Express credit card. The website is planned to be <http://www.fmiffee.com>.
- 2) By mail, by submitting Form I-901, Fee remittance for Certain F, J, and M Nonimmigrants, together with a check or money order drawn on a U.S. bank and payable in U.S. currency. Sources for such checks and money orders include banks chartered or operated in the U.S., foreign subsidiaries of U.S. banks, or foreign

banks that have an arrangement with a U.S. bank to issue a check, money order, or foreign draft that is drawn on a U.S. bank. The address to which to mail the fee will be provided on the I-901 Form.

- 3) Pay using local currency through Western Union Quick Pay™. See http://www.ice.gov/graphics/sevis/i901/wu_instr.htm for detailed instructions. You will need to submit the I-901 data at the time of payment but the properly completed Western Union receipt serves as immediate proof-of-payment for a visa interview at a U.S. consulate and for admission at a U.S. port of entry. This option is available in any country where Western Union offers its Quick Pay™ service.

A third party such as a friend, family member, or other interested party can pay the fee on your behalf through the same means described above.

A Note About Processing Times and Payment Verification

If you pay the SEVIS fee by Internet, your payment is processed immediately and, at the time you make payment, you can print a receipt directly from your computer. This computer-generated receipt can be used to verify you have paid the fee at an embassy, consular post, or port-of-entry. Mailing the SEVIS fee does not constitute payment. The fee is processed when it is received by DHS. If you mail your payment rather than pay on the Internet, it can take a considerable amount of time for payment to be received and for you to receive a receipt by return mail.

Whether you choose to pay the fee by the Internet or by mail, a paper receipt will be mailed to the address you provide on Form I-901. You may choose to have this receipt sent to you either by regular mail or, at an additional charge, by express delivery.

Embassies and consular posts may be able to verify your fee payment without a receipt in some circumstances, if you pay the fee far enough in advance of your visa interview. Electronic payments must be submitted at least 3 business days in advance of the interview if you will rely on electronic fee verification at the consulate. Mailed payments must be sent in a manner that assures arrival at the DHS address listed on the I-901 at least 3 business days before the scheduled interview.

If I have already paid the SEVIS fee for one school, and then decide to attend another, do I have to pay the fee again?

If you have been accepted to more than one institution and paid the fee using the SEVIS ID number of an institution you will not be attending, you will not have to pay the fee again. Bring the I-20s or DS-2019s of both the school for which you paid the fee and the school you will be attending, as well as your SEVIS fee payment receipt, to the consulate or port-of-entry (if you are applying for a visa, you should bring both of the I-20s or DS-2019s back to the consulate)

Is the SEVIS fee refundable if I am denied a visa?

Once paid, the SEVIS fee is non-refundable, unless paid by mistake, even if your visa is denied or, subsequent to issuance of the visa, you choose not to come to the United States.

If you applied for an F-1 or J-1 visa and paid the SEVIS fee within the last year but were denied a visa, you do not have to pay the SEVIS fee again as long as you re-apply for the same kind of program with 12 months of the initial denial.

INSTRUCTIONS

This form is used to pay the fee to support the F, M, and J nonimmigrant reporting system authorized by Public Law 104-208, Subtitle D, Section 641. If you are subject to this fee and do not pay it, you will not be issued an F, M, or J nonimmigrant visa or be admitted to the United States. If you are in the United States and apply for a change of status, you are subject to this fee. If you do not pay it, your application will not be processed.

Fee payment is required if the applicant is:

- a. An alien seeking an **F-1, F-3, J-1, M-1, or M-3** visa from an embassy or consulate abroad for initial attendance at a school approved by the Department of Homeland Security (DHS) or for initial participation in an exchange visitor program designated by the Department of State (DoS). There is an exception noted below in section j.
- b. An alien who does not need a visa to enter the United States as a student or exchange visitor, who will be applying for admission at a U.S. port-of-entry to begin initial attendance at a DHS-approved school or initial participation in a DoS-designated exchange visitor program except as specified in section j below.
- c. An alien in the United States seeking a change of status to **F-1, F-3, J-1, M-1, or M-3**. There are exceptions noted below in sections j and n.
- d. A nonimmigrant who was initially granted **J-1** status as a participant in an exchange visitor program sponsored by the Federal government, as specified in section j below, and who is now transferring to another J program in the same category that is not sponsored by the Federal government.
- e. A **J-1** nonimmigrant who is applying for a change of category from within the United States. There is an exception noted below in section j.
- f. A **J-1** nonimmigrant who is applying for a reinstatement after a substantive violation, or who has been out of program status for longer than 120 days but less than 270 days during the course of his or her program. There is an exception noted below in section j.
- g. An **F-1, F-3, M-1, or M-3** nonimmigrant applying for reinstatement of student status, who has been out of student status for a period exceeding the presumptive ineligibility requirement set forth in 8 CFR 214.2(f)(16)(A) or 214.2(m)(16)(A).
- h. An **F-1, F-3, M-1, or M-3** nonimmigrant who has been absent from the United States for a period exceeding 5 months, was not working towards completion of curriculum in authorized overseas study, and now wishes to re-enter for a new F or M program of study in the United States.
- k. An **F-1, F-3, J-1, M-1, or M-3** nonimmigrant who has previously paid the fee, or whose Form I-20 or DS-2019 initial attendance was issued on or before August 31, 2004 and who is applying for a visa to return to the United States as a continuing student or a continuing participant of an exchange visitor program.
- l. An **F-1, F-3, M-1, or M-3** nonimmigrant transferring between approved schools, changing educational levels, or applying for post-completion practical training.
- m. A **J-1** nonimmigrant transferring between programs in the same exchange visitor category where no differential fee exists.
- n. A nonimmigrant applying for a change of classification from within the United States between **F-1** and **F-3** status or between **M-1** and **M-3** status.
- o. An **F-1, F-3, J-1, M-1, or M-3** nonimmigrant requesting/applying for an extension of stay in a single program.
- p. An alien reapplying for a visa from an embassy or consulate abroad after having paid the SEVIS fee for a previous **F-1, F-3, M-1, or M-3** visa that was denied, and who is applying again for the same type of program within 12 months of the initial denial.
- q. An alien reapplying for a visa from an embassy or consulate after having paid the SEVIS fee for a previous **J-1** visa that was denied, and who is applying again for the same type J-1 exchange visitor category within 12 months of the initial denial, unless there is a fee differential.
- r. A nonimmigrant who has applied for a change of status in the United States to an **F, M, or J** classification, had the initial application for the change of status denied for a reason other than failure to pay the SEVIS fee, and is applying for a motion to re-open the case within 12 months of the original denial.

Documents needed to fill out this form:

- **F-1, F-3, M-1, and M-3** status only: Form I-20 (Certificate of Eligibility for Nonimmigrant Student Status) issued to you by DHS-approved school you will attend.
 - **J-1 status only:** Form DS-2019 (Certificate of Eligibility for Exchange Visitor [J-1] Status) issued to you by the designated exchange visitor program in which you will participate.
- i. An **F-2, J-2, or M-2** dependent.
- j. A **J-1** participant in an exchange visitor program sponsored by the Federal government. A program sponsored by the Federal government is identified by a program number of **G-1, G-2, G-3, or G-7**.

Instructions:**This form must be completed in English.**

Item Number:

- 1-3.** Enter your name exactly as it appears on your Form I-20 or DS-2019.
- 4.** Enter the street address to where your payment receipt should be sent. Include apartment number and Post Office (P.O.) box, if applicable.
- 5.** Enter the city where your payment receipt should be sent. Include a province as required. You may abbreviate (e.g., Toronto, ON) to ensure successful delivery outside the United States.
- 6.** For U.S. addresses only. If the address is in the United States, enter the 2-letter abbreviation for the state. If the address is not a state within the United States, do not fill in this section.
- 7.** Enter the country to which your payment receipt should be sent.
- 8.** Enter the postal code or zip code.
- 9.** List your date of birth in mm/dd/yyyy format.
- 10.** Check the appropriate space pertaining to your gender.
- 11.** Enter your city (province) of birth.
- 12.** Enter your country of birth, as listed on your Form I-20 or DS-2019.
- 13.** Enter your country of citizenship, as listed on your Form I-20 or DS-2019.
- 14. F/M status only:** Enter the school code found on your Form I-20. Leave the Program Number blank.
- J-1 status only:** Enter the exchange visitor program number found on the Form DS-2019 (e.g.; P-1-00000). If your sponsor number begins with G-1, G-2, G-3, or G-7, you are exempt from fee payment. Leave the School Code blank.
- 15.** Enter the SEVIS identification number listed above the barcode on the top right corner of your Form I-20 or DS-2019.
- 16.** Enter the passport number contained in your passport, if available.
- 17. A. F/M status:** Check the box in subpart A which indicates that you owe \$200.00 and continue on to item number 18. Do not check any boxes in subpart B.
- B. J-1 status:** Do not check the box in subpart A. Check the box in subpart B that corresponds to the exchange visitor category found on your Form DS-2019. (If your sponsor number in section 2 of Form DS-2019 begins with G-1, G-2, G-3, or G-7, you are exempt from fee payment). Continue on to item number 18.

- 18.** Select the type of delivery you want used to send your receipt (Form I-797) to you. This receipt will serve as confirmation of payment. You must select one of the following two options:
- A. Air Mail:** There is no additional charge for this option.
- B. Expedited Delivery:** There will be an added shipping and handling fee of \$35.00 for this option. Your receipt will be delivered in an expedited manner to the address listed in item numbers 4-8 on the Form I-901.
- If you choose the expedited delivery option, you must include a physical address. The courier will not deliver to a post office box.** You must also include a telephone number. This information will not be collected by the DHS and will only be used by the mail courier service in order to ensure expedited delivery.
- 19.** Add the amount from the box checked in item 17 (fee pertaining to classification) and item 18 (choice for delivery). This is the total amount of money that you owe. Please send only one check or money order.

Payment by mail:

The only forms of payment that will be accepted are checks and money orders. No other form of payment will be accepted. **Do not mail cash.**

All checks and money orders must be made in U.S. dollars and drawn on a bank located in the United States.

All checks and money orders must be made payable to the "I-901 Student/Exchange Visitor Processing Fee."

Checks are accepted subject to collection. A charge of \$30.00 will be imposed if a check for payment of a fee is not honored by the bank on which it is drawn.

Write the name of the student or exchange visitor and the SEVIS identification number on the check.

Fees must be submitted in the exact amount. Failure to file forms correctly or with the correct payment will result in the return of this form to you and additional delay in processing. Fees will not be refunded.

Mail the Form I-901 and payment to:

**I-901 Student/Exchange Visitor Processing Fee
P.O. Box 970020
St. Louis, MO 63197-0020
or**

Courier the Form I-901 and payment to:

**I-901 Student/Exchange Visitor Processing Fee
1005 Convention Plaza
St. Louis, MO 63101**

Payment by Internet:

You may also complete the Form I-901 online. The form and payment may then be submitted as explained above. Alternately, online payment may be made using a credit card. The online Form I-901 is available at: **www.FMJfee.com.**

Privacy Act Notice.

Authority to collect this information is contained in 8 USC 1154, 1184, and 1258. Failure to provide all of the requested information may result in the delay of a final decision or denial of your request. We may provide this information to other government agencies (Federal, state, local, and/or foreign).

Paperwork Reduction Act Notice.

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and that impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is 19 minutes. If you have comments regarding the accuracy of this estimate or suggestions for making this form simpler, you may write to the Department of Homeland Security, U.S. Immigration and Customs Enforcement, Records Management Branch Chief, 500 12th St., SW, Room 3138, Washington, DC 20536. **Do not mail your completed application to this address.**

I-901, Fee Remittance for Certain F, J and M Nonimmigrants

TYPE OR PRINT IN BLUE OR BLACK INK

1. Last Name (*Surname*):

2. First Name (*Given Name*):

3. Middle Name:

WHERE DO YOU WANT YOUR PAYMENT RECEIPT TO BE SENT?

4. Street Address /P.O. Box: _____ Apartment Number: _____

No. 2 Street Address /P.O. Box: _____

5. City (*Province*):

6. State (*U.S. Address Only*):

7. Country:

8. Zip Code/Postal Code:

9. Date of Birth (*mm/dd/yyyy*):

10. Gender (*Check one*): Male:

Female:

11. City (*Province*) of Birth:

12. Country of Birth:

13. Country of Citizenship:

14. School Code (*I-20 (F/M nonimmigrant only)*):

OR

Program Number (*DS-2019 (J-1 nonimmigrant only)*):

214F

15. SEVIS Identification Number:

16. Passport Number:

N

17. Amount to be paid:

A. **F/M only:** (\$200)

B. **J-1 only:** Indicate your Exchange Visitor Category (*Check only one of the following boxes*)

- Student (\$180)
- Trainee (\$180)
- Teacher (\$180)
- Professor (\$180)
- Alien Physician (\$180)
- Government Visitor (\$180)

- Research Scholar (\$180)
- Short-term scholar (\$180)
- Specialist (\$180)
- Intern (\$180)
- Camp Counselor (\$35)
- Summer Work/Travel (\$35)
- AuPair (\$35)

18. Return Receipt: A. Air Mail (\$0)

(*You must choose one*) B. Expedited Delivery (\$35) Telephone: _____

19. Total amount (add total from 17 and 18): \$ _____.

Instructions for Your Upcoming Trip to the USA

Please bring the following documents with you (in your carry-on luggage):

- Your passport
- A document verifying your age. This document must be dated and must be at least one year old at the time you use it to apply for a Social Security Number.
- Your original DS-2019
- Your birth certificate with translation (for you and any dependent coming with you).
- Your marriage certificate (if applicable).

Do not attempt to pack any of the following in your carry-on luggage:

- Any sharp object (knife, tweezers, scissors, etc...)
- Any aerosol container (mace, hairspray, shaving cream, etc)
- Any object that could be used or construed as a weapon.

Refer to <http://www.tsa.dhs.gov/> for an up-to-date list of what is and is not allowed on planes coming to the U.S.