

Visa survival guide (December 2015)

This guide is meant to serve as an overview of visa issues which may need to be considered by international postdocs wishing to conduct research in the United States. This guide is not meant to replace legal counsel or interaction with the Ohio State University's Office of International Affairs, but provides very basic information on topics which the interested reader should pursue in greater depth.

H-1B VISA

The H-1B visa is a non-immigrant visa that allows the holder to legally work in the US for an initial period of up to three years. That initial period can be extended for an additional three years. So, successful applicants can legally work in the US for a total period of 6 years while holding a H-1B visa. The visa is a non-immigrant visa. However, if residency is maintained for five years, the visa holder can safely file for permanent residency and change their status to immigrant. Because of this, the H-1B visa holder is often considered to have a “dual intent”, non-immigrant / immigrant. The downside of this visa type is that it usually entails long processing, 4-6 months on average. The filing requires coordination between departmental human resources and the [Office of International Affairs](#) (OIA). The OIA sends documentation to both the Department of Labor (DOL) and the United States Citizenship and Immigration Services (USCIS). Before switching to a H-1B visa, please consult your postdoctoral advisor in advance as it is a highly regulated process. Also, before you decide to apply for a H-1B visa it is important to keep two key things in mind: dependents of a H-1B scholars (also known as H4 dependents) cannot legally work in the US, at least not until you start the process to obtain permanent residency, and OSU does not sponsor green card applications for postdoctoral employees. You must be promoted to some permanent position in order to be sponsored for a green card. You have two routes to apply for the H-1B visa:

1. Change of status within the US

This is applicable if you already reside in the US and are changing from one visa status to H1-B status. The internal processing takes 6-7 months and the change of status application might take anywhere from 2-6 months to process with USCIS. However, one can also file under “premium processing” which requires an extra \$1225 processing fee (as of June 2015) and the application should be processed within 15 days. USCIS however does not provide guarantees, and even with premium processing it might take longer if additional information is required.

2. Applying for the H1B visa while in your home country

This involves taking all the necessary documents to your home country's US consulate and appearing for a visa interview. This process can take longer than the previous option since you need to wait to have the approval notice from USCIS before applying for an H1B visa.

J1 VISA

[The J1 visa](#) is a non-immigrant visa usually given to internationals looking to research or teach in the US on an exchange program. The attractive part for an employer is that this visa is cheaper to process (less than \$300). It also involves less hassle and paperwork, compared to the H-1B visa. One important thing to consider for some is that J1 visas have a [two-year home residency requirement](#). This means that if you receive funding from your home country's government and/or if the training you will receive is included on the "[skills list](#)" for your country, you are subject to [212\(e\). In short, the visa holder has to return to his country of citizenship for two years before returning to the USA in H-1B, L-1 or PR status.](#) (All other statuses are permissible with this requirement). However, one can get a waiver and change status to continue staying in the US. Contrary to a H-1B, dependents of a J1 visa holder, also known as J2, can apply for a work permit and legally work in the US.

Depending on where you are, you have two options for J1 visa processing:

1. Applying for the J1 visa while in your home country.

One has to follow the usual procedure of contacting the US Embassy, submitting forms, paying the SEVIS fee, and going for a visa interview. Depending on your field of research and which country you are from, you may be subject to administrative processing which can take up to 4-8 weeks after the visa interview, so keep this in mind while planning your move. During the visa interview, it will be best to go to the interview with all [supporting documents](#) which might include your resume or curriculum vitae (which includes a list of all your scholarly activities and publications). A letter of support from your visa sponsoring mentor in the US would also be beneficial. If you are coming with your family, the visa interview will include all of your family members as well.

2. Applying for the J1 visa while in the US.

If you are in the US under a different visa category such as student and your employer is willing to sponsor you for the J1 visa, you have two options. The first one involves going back to your home country and following **option 1**. The second option is for a change of status (COS) which involves filing an I-539 application along with a DS-2019 forms from the employer (which in our case will be OSU). You need to follow the check list of documents as suggested by the [Office of International Affairs, OSU](#) (OIA). Another important document to be added is your cover letter explaining your circumstances for changing status. You also have to state your intent as a non-immigrant to return to your home country after your J1 program is finished. A letter of support from your visa sponsoring mentor, your resume, and/or curriculum vitae might also help in explaining your case further. In most cases you have to show that your previous employment

on a F1-OPT visa was in your area of study (as present in I-20) and this J1 sponsored employment is a further continuation of your studies.

Remember, since there is no premium processing for this visa category, it might take anywhere between 2-4 months (usually) for a decision by USCIS. However, in recent years there have been many delays in this visa category. Some universities don't suggest filing COS if one is expecting to start in J-1 status in less than four months. In that scenario, it is much faster, yet more expensive, to follow **option 1**.

What to do if your application gets stuck at USCIS service center for processing.

This is a harrowing time for anyone in this situation. Remember to ask questions and ask for help. Conduct internet searches and review various online forums like trackitt.com, [Murthy Visa Forum](http://MurthyVisaForum.com), [Visa Journey](http://VisaJourney.com), etc. You can post questions or follow previous posts to understand your options. The USCIS Ombudsman resource is a great place to start (<http://www.dhs.gov/cis-ombudsman-update-getting-most-out-your-call-uscis-national-customer-service-center>). Briefly, this includes calling the USCIS customer service phone number and talking to either Tier 1 or Tier 2 officers about your case. Remember to always be courteous and polite. One can also e-mail the service center or the USCIS headquarters. Finally if nothing works, one can write to one's state senator's office, and if they are willing they may help by making an inquiry on your behalf. Another option is to utilize the help of an immigration attorney who is a member of [American Immigration Lawyers Association \(AILA\)](http://AmericanImmigrationLawyersAssociation.org). The AILA lawyer can initiate a formal inquiry in your case. The final tool in your toolbox is the [USCIS Ombudsman office](http://USCISOmbudsmanOffice.com). You can submit an online application ([DHS-7001](http://DHS-7001.com)) and they usually take up the case fairly quickly. These are just couple of options available to research on if one's case gets stuck in "limbo". The crucial thing is to ask for help. Talk to someone who is already going through the same process or has been through the process. Talk to your fellow postdocs or come talk to the [OSU Postdoc Association International Committee chair](http://OSUPostdocAssociation.org). We may be able to suggest some additional resources.

This document is not an exhaustive guide on visas. Please talk to experts and the OIA for additional resources, and *always do your own research* before making decisions. But remember, other international postdocs can be a great resource to rely on, in time of crisis. Together we can.

List of resources

1. <http://www.nationalpostdoc.org/publications/international-postdoc-resources/quick-guide-to-visas>
2. http://www.uscis.gov/sites/default/files/USCIS/Outreach/Notes%20from%20Previous%20Engagements/2011/April%202011/AILA%20_040711.pdf

3. <http://oia.osu.edu/>