**Practice Pointer: J-1 Research Scholar - A Misunderstood Immigration Category**[1]

## J-1 Visa Basics for Researchers

The J-1 Research Scholar category can help enhance U.S. research, innovation, and economic development by allowing international STEM talent to engage in, support, or play a role in future-shaping research in the United States. There are four issues and concepts that form the basic foundation for eligibility for the J-1 Research Scholar category: the J-1 participant, the site of research activity, the program sponsor, and the funding for the J-1 participant.

Colleges, universities, and research organizations with their own J-1 programs have used this category for decades to support basic and applied research on campuses. More recently, non-profit exchange visitor programs have also become designated in this category, to support private sector research and development (R&D) at companies. AILA members representing employers outside of academia may be less familiar with this category. As with any immigration process, it is important to carefully vet the J-1 program sponsor involved.

This practice pointer provides background for attorneys to understand the J-1 process, and to ask questions of program sponsors.

For more detailed guidance see researcherusa.com, which helps organize and present the State Department (DOS) information at STEM Research Initiative - BridgeUSA. These websites provide examples of appropriate uses of the J-1 and are the roadmap for J-1 program sponsors. Although this resource discusses the J-1 research scholar category, the researcherusa.com website also discusses use of other J-1 categories for STEM talent, such as Specialist, Trainee, Short Term Scholar and Intern.

The NAFSA Advisers' Manual is also a valuable resource on J-1 regulations and practice.

Note that some J-1 exchange visitors are subject to the two-year home residence requirement at INA 212(e) based on their country of nationality or country of last permanent residence and the U.S. Department of State (DOS) Skills List before they may apply for an immigrant visa, an adjustment of status, or a change of status (such as to the H or L nonimmigrant category). DOS updated the list of countries subject to the two year rule in late 2024, and it can be accessed from the DOS website at Skill List by Country. If the individual's country of nationality or country of last permanent residence is on that webpage, then the next step is to click on the Federal Register link at the top

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of the page to confirm whether the individual's field of specialized knowledge or skill in which the individual was engaged appears on the DOS Skills List.

1) J-1 Participants — STEM talent who will hold J-1 status.

Historically, J-1 Research Scholar status has been available to individuals with at least a bachelor's STEM degree, although most participants hosted by STEM businesses or researching in academia have graduate STEM degrees.

2) Site of Activity - The site(s) where STEM R&D is being pursued

The research can include applied and experimental efforts tied to product development and can be at/with/for any host entity of any size in any geography across the U.S., including a start-up.[2] See the examples in the FAQs at BridgeUSAPrograms | BridgeUSA for more detail. The research might also be part of a formal post-doctoral fellowship or other scholarly research effort, typically at a university lab. The J-1 participant's research may be performed for an employer who is funding her work and is sponsoring her J-1 program, but the research site could also be employment separate from the sponsor or funding source.

3) Program Sponsors - The designated entities authorized by DOS to sponsor J-1 participants in the Research Scholar category. Program sponsors are responsible for compliance, administration, and monitoring the exchange program for which they are designated.[3]

These designated sponsors include all major research universities in America, and a handful of private sector "umbrella programs" designated by DOS to act as an "umbrella" for host companies or employers of any type (including for-profit firms or nonprofit research organizations or universities). Established programs include the American Immigration Council, Cultural Vistas, CENET, IIE, and CIEE.

4) Financial Support - J-1 participants must be funded.

The program sponsor must be able to confirm that the J-1 participant will receive sufficient funding to support herself while in the United States.[4] Funding might come from the program sponsor itself, which is common when, for example, a post-doc's site of activity, sponsor, and funder is the same entity, such as a U.S. research university. But financial support can also be from an employer that hosts the J-1 researcher, even though that employer is not itself a program sponsor. Financial support could come from another grant or fellowship awarded

[2] Only certain categories of DOS Exchange Visitor Program regulations establish requirements for third-party agreements when placing exchange visitors off campus, most notably for Short Term Research Scholars at 22 CFR 62.20(a)(2), Trainees and Interns as contained at 22 CFR 62.22(g), College and University Students (student interns) at 22 CFR 62.23(i), and Alien Physicians at 22 CFR 62.27(a).
[3] 22 CFR 62.9 .
[4] See 22 C.F.R 62.12 (b)(1)(ii-iii).

to the individual participant, and in some situations the participant can be self-funded.

The program sponsor must verify the ability of each J-1 participant to have funding sources to cover their living expenses (and to have access to qualifying health insurance), as noted on the individual's DS-2019 Certificate of Eligibility issued by the sponsor.[5]

5) Types of positions - STEM jobs connected to a Classification of Instructional Program (CIP) on the DHS STEM Designated Degree Program List (STEM OPT list last updated July 2024) could be supporting, conducting, or participating in STEM R&D through the J-1 Research Scholar category.

## Qualifying Participants

J-1 Participants: Who is potentially eligible for J-1 Research Scholar status?

There are some common fact patterns where eligibility should be assessed.

An individual outside the United States with a master's or PhD who is poised to pursue future-shaping research, either as a research founder, post-doc, academic researcher, or researcher in industry may be eligible to come to the United States as a J-1 Research [6]

There are also a variety of situations where an F-1 nonimmigrant might consider changing status in the United States to J-1 Research Scholar after earning a STEM master's or STEM PhD degree in the United States and the individual is going to pursue STEM research following graduation (or during or following a period of optional practical training (OPT)). Some J-1 post-docs obtain their J-1 status to complete their post-doc this way. The option also may be relevant if the individual has a job offer from a U.S. firm conducting STEM R&D. U.S. Citizenship and Immigration Services (USCIS) currently offers premium processing if the individual is in F-1 nonimmigrant status and is applying to change status to J-1.

Practitioners should note that a change of status under 8 CFR 248 requires an admission and maintenance of status since that admission.[7] This requirement can involve some significant factual and legal analysis, especially for individuals in humanitarian immigration categories.[8] In addition, individuals who are citizens of the 39

[5] 22 CFR 62.9(e)(1).
[6] See examples at BridgeUSAPrograms | BridgeUSA
[7] 8 CFR 248.1(a).
[8] See for example this discussion of whether an individual with TPS can change status to F-1. TPS: When and Why to Apply for F-1 Status - Google Docs

travel ban countries are currently subject to the USCIS adjudications hold, and even filing a petition via premium processing has not led to approvals for change of status.[9]

Most international post-docs in the United States hold J-1 status in the Research Scholar category, allowing up to 5 years in the United States to engage in research. The area of research for the up to 5-year period is identified by the Classification of Instructional Program (CIP) code on each J-1 post-doc's Detailed Description of the DS-2019 - BridgeUSAParticipants | BridgeUSA. J-1 post-docs can also engage in company research, or nonprofit research, in addition to or after their scholarly, on-campus research, as long as all research is related to the same CIP code.

J-1 Research Scholars can engage in and support scholarly research at university and teaching hospital labs but ***also*** may fill many other roles within academic labs or within company R&D.[10] If the primary purpose and day-to-day duties of a position are clearly part of research and development efforts, such positions could be fulfilled by a J-1 Research Scholar, whether the duties require a STEM bachelor's, master's, or doctorate.[11] The DOS website contains examples and FAQs to show the range of activities that might qualify.

**Both Industry and Academia**

Sites of Activity: Are J-1 Research Scholars only researching at universities and teaching hospitals?

No, J-1 researchers are not limited to academic research. J-1 Research Scholars can work with for-profit companies, and be paid as regular employees by the company, whether a start-up or a multinational firm. For purposes of J-visa status for Research Scholars, the term of art for job location is the "site of activity." The host site of activity can be a company engaged in R&D and is not limited to scholarly research at the nation's hospitals and higher ed institutions, shown by the examples DOS in the BridgeUSA FAQs on J-1 STEM research.

Traditionally, the J-1 Research Scholar category has been used mostly for and at universities and teaching hospitals. For example, most international post-docs in the United States are J-1 Research Scholars. Importantly, after completing on-campus activities, a post-doc can add a new site of activity with a company, start-up, or other

[9] For additional context on the travel ban, see Practice Alert: Updates on Pause on Decisions for Travel Ban Countries, and the USCIS memo pausing adjudications is at PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf.

[10] *See* 22 CFR 62.20(c)(Research may occur at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions in the United States).

[11] *See* 22 CFR 62.20(b)(The purpose of the exchange program is for conducting research, teaching and lecturing, and engaging in cross-cultural activities.

research site, as long as the research is similar to or related to the post-doc research program.[12]

## Program Sponsors

J-1 program sponsors: Are J-1 Research Scholars only sponsored by universities and teaching hospitals?

No, universities and teaching hospitals are not the only permitted sponsors of J-1 Research Scholars. Higher education is the largest group of sponsors - and the largest site of activity - for the J-1 Research Scholar, but there are private sector exchange programs. Programs - BridgeUSABridgeUSA has links to these program sponsors for each J-1category. It includes scholarly work on campus *or* STEM R&D of all types off campus.

As discussed above, nonprofit "umbrella organizations" are authorized to be sponsors of STEM researchers at host companies and can partner directly with host companies of any size. They are also authorized and have experience working with host organizations where there are multiple sites of activity. This experience makes them particularly valuable to collaborating with international researchers who would like to be part of a venture studio as a research founder while also pursuing bench research, university lab research, and/or company or nonprofit research. They also are ideal partners with universities when a post-doc wants to weave in employment and research outside of academia or switch to company research after on-campus scholarly pursuits. The researcherusa.com website provides resource information on how the J-1 Research Scholar category works for STEM R&D across America, including outside of academia, with FAQs. When of interest, a J-1 post-doc can also transfer her sponsorship from a university to a nonprofit umbrella program such as American Immigration Council, Cultural Vistas, CENET, IIE, and CIEE.

## Financial Support

Funding: What are the options for financial support for a J-1 Research Scholar?

The J-1 Research Scholar category does not have specific requirements for salary and funding. The purpose of the J-1 Research Scholar program is the exchange of ideas and building connections and collaborative research partnerships between American and global researchers. For lack of a better phrase, one might consider the goal to be fostering brain circulation.

For researchers on U.S. college campuses, it's very common for the sponsor, host site of activity, and funder to be one and the same: the higher education institution. The regulations do not require the funder to be the sponsor. When nonprofit program sponsors act as umbrella organizations, exchange program sponsorship has been

[12] 22 CFR 62.20(f).

provided for a wide variety of funding sources, including a for-profit company, venture studio, philanthropy, independent lab, grant or fellowship, or self-funded.

## Summary

As immigration policies and processing times vary more than ever, attorneys should think of immigration as a choice of categories. To best serve clients, AILA members must understand all possibly relevant visa types, and screen individuals for each option. The J-1 Research Scholar category is one such option with a unique characteristic. J-1 status is sponsored by a DOS-designated program sponsor. That sponsor may do much or all of the work, but attorneys have an important role in helping to recommend if J-1 Research Scholar is a good option among many visa categories, evaluating possible J-1 program sponsors, supporting consular processing or change of status after the J-1 DS-2019 form is issued, and advising on any longer term strategies. The attorney may also, depending on the interest of the employer, help to interface with the J-1 program sponsor during the process.