



## BECHTEL INTERNATIONAL CENTER AT STANFORD UNIVERSITY

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### **New Five Year Rule for J-1 Exchange Visitor Research Scholars/Professors**

Summary of changes to regulations governing the J-1 Exchange Visitor Research Scholar/Professor Category, retroactively effective from November 18, 2006.

#### **Five Year Rule**

Effective November 18, 2006, the maximum length of program for J-1 exchange visitors in the Research Scholar and Professor category has been increased from three to five years. This five year maximum stay is a “continuous” period, and not counted as an aggregate. Once the exchange visitor begins his or her J-1 program, this five year period begins. It stays open until the end of the five years or when the program is concluded - whichever is earlier. I-Center will issue the initial DS-2019 for the duration of the appointment, and extend it up to a maximum of five years when requested by the department.

#### **Two Year Participation Bar**

Effective at the end of the exchange visitor’s program, regardless of how short or long that stay is (few months, few years, or five years), SEVIS closes the exchange visitor’s program. The exchange visitor then becomes subject to a **“two year bar on repeat participation as a research scholar or professor.”** This means that when a research scholar/professor completes his or her program, regardless of the length, the J-1 research scholar/professor status is concluded and the person is not eligible for another stay as a J-1 research scholar/professor until two years have passed. This applies even in cases when the second period of activity is at a different institution.

This bar is **different** from the **two year home country residence requirement** and only applies if the individual wants to return to the U.S. in the J-1 research scholar/professor category. The two years can be spent in the U.S. in another J-1 category (i.e. short term scholar) or in another immigration status (e.g. H-1B) depending on individual circumstances.

**Example I:** Dr. Li is appointed to a visiting faculty position at Stanford University, starting September 24, 2007, and concluding on June 15, 2008. Stanford University issues her a DS-2019 to cover the period of her appointment. At the end of this appointment, Dr. Li returns to her faculty position in China, and her J-1 program is marked as “completed” in SEVIS. Now Dr. Li is subject to the **“two year bar on repeat participation as a research scholar or professor”** and cannot return to the U.S. in this J-1 category until June 16, 2010, either at Stanford or any other university.

**Example II:** Dr. Gupta comes to MIT as a J-1 Research Scholar in January 2004. He completes his program on December 10, 2006, after which he returns to his home country. In January 2007, Stanford offers him a one- year Research Scholar position. Since Dr. Gupta’s SEVIS record has already been marked as “completed”, he will have to wait until June 16, 2008 years before he can return to Stanford (or any other University) as a J-1 Research Scholar.

This means that departments cannot accept J-1 Research Scholars/Professors who have been at another University in a similar J-1 category without determining eligibility under the new rule, even if the person would meet our requirement for total duration of post-doc appointments. Depending on individual circumstances, scholars such as Dr. Gupta may be eligible for a different visa type.

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**Example III:** Dr. Fan comes to Stanford as a J-1 Research Scholar in Jan 31, 2004. Stanford University issues a DS-2019 to cover her appointment until January 30, 2007. In November 2006, she is offered a similar one year position at the University of Pennsylvania with a start date of January 25, 2007. Dr. Fan is eligible to “transfer” to the University of Pennsylvania as long as the entire transfer process (transfer out by Stanford, transfer in by Penn) is completed before the program end date (Jan 30, 2007 in this example). It is important that Stanford University (specifically the Bechtel International Center) receive a transfer-out request in a timely manner – two to four weeks **before** Dr. Fan’s current DS-2019 expires.

### **Application of the Five Year Rule and Two Year Participation Bar**

The Five Year Rule and the Two Year Participation Bar applies to those who

- Are currently in the US in J status
- AND
- In the Professor and Research Scholar categories for any length of time
- AND
- Complete their J program on or after November 18, 2006

It also applies to all new incoming J Exchange Visitors in the Research Scholar and Professor categories

### **Existing 12 month bar**

A twelve month bar also exists for persons seeking to use the J-1 Research Scholar/Professor category. This bar applies to individuals who have been in the US in any J status (all categories except short term scholar, and including J-2 status) for six months or more in the 12 month period immediately prior to the proposed start date on the new J program. Prospective J-1 research scholar/professors who are subject to the two year bar on participation are not subject additionally to the 12 month bar.

### **Two Year Home Residency Requirement**

The two year bar on participation is different than the Two Year Foreign (“Home”) Residency Requirement (212(e)). For information about 212(e) go to [http://www.stanford.edu/dept/icenter/InternationalScholars/j\\_guide/2yr.html](http://www.stanford.edu/dept/icenter/InternationalScholars/j_guide/2yr.html)

### **Guidelines for Stanford Appointments**

The I-Center will issue a DS-2019 for the period of the initial appointment (for a maximum of five years) as long as there is evidence of continued funding. If the initial DS-2019 is issued for a period of less than five years, and the department wishes to request an extension (for a total of up to five years) they must submit a request for extension to the I-Center six to eight weeks prior to the expiration of the current DS-2019.

Departments should consider the use of the J-1 short-term scholar category when a scholar visits Stanford on an on-going basis for visits that last no more than 6 months each. Short-term scholar participants are not subjected to the two year bar on participation, however extensions beyond six months per visit are not permissible. To date, the I-Center has used the short-scholar category for only a few appointments. In the future, when an initial appointment is for six months or less, the I-Center will consider using the short-term scholar category to avoid subjecting exchange visitors to the two year bar unnecessarily.

If you have questions about this new regulation please contact any of our foreign scholar advisors (John Pearson, Lee Madden, Brian Groves, Lynn Kroner, or Shalini Bhutani) at [foreign.scholars@stanford.edu](mailto:foreign.scholars@stanford.edu) and we will respond within two working days.