

J-1 OR H-1B: A COMPARISON

J-1 EXCHANGE VISITOR STATUS	H-1B TEMPORARY SPECIALTY WORKER STATUS
<p>For you or your academic department hiring you, there is an International Services and Engagement Office (ISEO) processing fee. The processing fee is paid when you are starting or transferring to UCSD. There is an fee for extending your J-1 status.</p>	<p>Your academic department must pay processing fees when starting, transferring to UCSD, or extending/amending your H-1B status. There are two sets of fees:</p> <ul style="list-style-type: none"> • US Department of Homeland Security required fees • International Services and Engagement Office (ISEO) processing fee <p>By law, these fees must be paid by your department—not you. Furthermore, your department will have to pay for all future fees for extensions.</p>
<p>Amount of time and work required of your academic department is minimal.</p>	<p>Amount of time and work required by your academic department is significant and more burdensome.</p>
<p>Processing costs to you or to your department are described above. However, you are also responsible to pay all fees charged by the US Consul where you and your dependents will apply for a visa. This includes a SEVIS fee (for J-1 principal only; not for any dependents).</p>	<p>The only processing costs that could legally be passed on to you are the required USCIS fees for dependents, paid directly to the US Dept of Homeland Security.</p> <p>If applicable, you are also responsible for all fees charged by the US Consul if you and your dependents will apply for an H visa.</p>
<p>J-1 requests take two weeks to process to issue the Form DS-2019.</p>	<p>ISEO requires three months to work on an H-1B request prior to filing it with USCIS; USCIS can take 8 to 13 months to process the petition, unless the Premium Processing fee is paid (15 day processing time).</p>
<p>J-1 scholars must pay for all costs of travel for themselves, their dependents, and their belongings (unless their academic departments put in writing that these costs will be covered).</p>	<p>H-1B scholars must pay for all costs of travel for themselves, their dependents, and their belongings (unless their academic departments put in writing that these costs will be covered).</p> <p>One exception for scholars in H-1B status is that they may request that the department pay for return airfare to their home countries if their appointments are ended prematurely. Prematurely terminated H-1B scholars still must pay the costs of repatriating their dependents and belongings.</p>
<p>J-1 scholars may qualify to be paid for incidental, short-term contractual work understood as “occasional lectures and consultations”</p>	<p>H-1B work authorization is employer- and job-specific. If the original appointment changes (for example, from full-time to part-time), if the H-1B scholar wants to take a second job, or if the H-1B scholar simply wants to accept an honorarium for a special presentation, a whole new “concurrent H-1B”—with all the expenses borne by the employer as described above—must be filed.</p>
<p>J-2 dependents can apply for work authorization.</p>	<p>H-4 dependents are not eligible to receive work authorization.</p>
<p>Scholars in J-1 status will remain nonresident aliens for tax purposes for a longer period of time, thus avoiding paying payroll taxes and income tax on worldwide income.</p>	<p>Scholars in H-1B status are typically taxed as US citizens, on worldwide income.</p>

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<p>Funding sources that academic departments use for J-1 scholars may be mixed and complex—e.g., from UCSD and/or a grant and/or other organizations, etc.</p>	<p>H-1B Specialty Workers must be paid from UCSD sources ONLY, as salaried employees, with income and payroll taxes withheld.</p>
<p>J-1 scholars typically can accept whatever pay is offered by their academic departments. If not enough to cover living costs, then they must also show other sources of support to cover all costs they are expected to incur while working here at UCSD.</p>	<p>H1B scholars must be paid the prevailing wage rate as determined for the occupation in the metropolitan statistical area.</p>
<p>When applying for a J-1 Exchange Visitor visa, scholars must show ties to their home countries that demonstrate that they will return once their appointment at UCSD is completed.</p>	<p>When applying for an H-1B visa, scholars are not required to show ties to their home countries.</p>
<p>Some J-1 scholars (depending on funding and US government agreements with scholar's government) may be subject to the two-year home country physical presence requirement 212 (e). This means that once the J-1 appointment is completed, scholars must go back to their home countries for at least two years.</p> <p>Although the two-year home residency rule prevents individuals from qualifying for H, L, or Permanent Residency statuses (until satisfying or waiving the two-year rule), it does not prohibit entry to the U.S. in other statuses for short-term visits.</p> <p>J-1 scholars who find that they are subject to the two-year requirement (see an International Faculty & Scholar Advisor about this when you first come to UCSD) may apply to have this requirement waived. Scholars from most countries (including China, India, and South Korea) are able to get waiver applications approved in about six months. Almost all waiver applications are successful. If the application to waive is done soon after arrival in the USA, for most scholars the two-year rule can be waived in advance of the time needed to do a change of status to H-1B status if it should be needed.</p>	<p>The two-year home residency rule can be applied ONLY to those in J-1 status—not H-1B status.</p> <p>To be eligible for H-1B status, scholars must not have 212 (e) the two-year home residency rule pending.</p>
<p>Scholars may hold J-1 status for up to five years. Except for tenure-track or tenured faculty positions, for which J-1 status is proscribed, scholars with long-term plans to apply for Permanent Residency often find J-1 status extremely valuable. Starting in J-1 status and then changing to H-1B offers scholars an extra five years to achieve accomplishments, establish extensive documentation in support of academic excellence, and to be offered a position at UCSD that the institution might sponsor for Permanent Residency.</p>	<p>Scholars may hold H-1B status for up to six years (initial status for three years with a three-year extension). Except for tenure-track or tenured faculty positions, scholars with long-term plans to apply for Permanent Residency often find that bypassing J-1 status and going directly to H-1B does not allow them enough time to accumulate achievements, recognition, or the right job offers. Thus, they may not receive institutional support when trying to apply for Permanent Residency, and may pay \$5,000 to \$10,000 for a private attorney.</p>

MEMORANDUM OF UNDERSTANDING TO BYPASS J-1 STATUS FOR H-1B

Signature required if submitting an H-1B Initial Request before completing 5 years of J-1 status.

By signing this statement, it is understood that you have read the above comparison chart and realize that one may be foregoing significant benefits by not completing 5 years in J-1 status in order to directly apply for H-1B status. Further, it is understood that H-1B status has a 6-year limit and that UCSD has a strict Permanent Residency (PR) policy (see UCSD PPM 200-16 for more information on PR sponsorship.) Therefore, one may have very limited opportunities to remain in the U.S. after the expiration of H-1B status.

Scholar Name

UCSD Supervisor Name

Signature

Signature

Date

Date