

**§ 41.62 Exchange visitors.**

(a) *J-1 classification.* An alien is classifiable as an exchange visitor if qualified under the provisions of INA 101(a) (15) (J) and the consular officer is satisfied that the alien:

(1) Has been accepted to participate, and intends to participate, in an exchange visitor program designed by the United States Information Agency as evidenced by the presentation of a properly executed Form IAP-66, Certificate of Eligibility for Exchange Visitor (J-1) Status;

(2) Has sufficient funds to cover expenses or has made other arrangements to provide for expenses;

(3) Has sufficient knowledge of the English language to undertake the program for which selected, or, except for an alien coming to participate in a graduate medical education or training program, the sponsoring organization is aware of the language deficiency and has nevertheless indicated willingness to accept the alien; and

(4) Meets the requirements of INA 212(j) if coming to participate in a graduate medical education or training program.

(b) *J-2 Classification.* The spouse or minor child of an alien classified J-1 is classifiable J-2.

(c) *Applicability of INA 212(e).* (1) An alien is subject to the 2-year foreign residence requirement of INA 212(e) if:

(i) The alien's participation in one or more exchange programs was wholly or partially financed, directly or indirectly, by the U.S. Government or by the government of the alien's country of nationality or last residence; or

(ii) At the time of the issuance of an exchange visitor visa and admission to the United States, or, if not required to obtain a nonimmigrant visa, at the time of admission as an exchange visitor, or at the time of acquisition of such status after admission, the alien is a national and resident or, if not a national, a lawful permanent resident (or has status equivalent thereto) of a country which the Director of the United States Information Agency has designated, through publication by public notice in the FEDERAL REGISTER, as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien

will engage during the exchange visitor program; or

(iii) The alien acquires exchange visitor status in order to receive graduate medical education or training in the United States.

(2) For the purposes of this paragraph the terms *financed directly* and *financed indirectly* are defined as set forth in section § 514.1 of chapter V.

(3) The country in which 2 years' residence and physical presence will satisfy the requirements of INA 212(e) in the case of an alien determined to be subject to such requirements is the country of which the alien is a national and resident, or, if not a national, a lawful permanent resident (or has status equivalent thereto).

(4) If an alien is subject to the 2-year foreign residence requirement of INA 212(e), the spouse or child of that alien, accompanying or following to join the alien, is also subject to that requirement if admitted to the United States pursuant to INA 101(a) (15) (J) or if status is acquired pursuant to that section after admission.

(d) *Notification to alien concerning 2-year foreign residence requirement.* Before the consular officer issues an exchange visitor visa, the consular officer must inform the alien whether the alien will be subject to the 2-year residence and physical presence requirement of INA 212(e) if admitted to the United States under INA 101(a) (15) (J) and, if so, the country in which 2 years' residence and physical presence will satisfy the requirement.

**§ 41.63 Two-year home-country physical presence requirement.**

(a) *Statutory basis for rule.* Section 212(e) of the Immigration and Nationality Act, as amended, provides in substance as follows:

(1) No person admitted under Section 101(a) (15)(J) or acquiring such status after admission:

(i) Whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the United States Government or by the government of the country of his nationality or of his last legal permanent residence;