





(while working offsite) and will return to work at the Laboratory within a reasonable period of time. In the instances where a visiting student/scientist J-1 visa holder needs to make repeated visits to the Laboratory, the visitor must contemplate the 2-year rule.

Please review the two-year bar graph below to determine if you are or will be subject to this requirement

Previous J-1 Exchange Visitor (EV) Status	Length of Stay in the United States in Previous J-1 Visa Status*	Date Exchange Visitor Completed Program**	Can begin or return as Professor or Research Scholar
Any EV (J-1) category other than Professor/ Research Scholar	6 months or less	Any date	Immediately
Any EV (J-1) category other than Professor/ Research Scholar	More than 6 months	Any date	After 12 months from the EV's Program End Date or Effective Date of Completion **
Research Scholar/ Professor (J-1)	6 months or less	Prior to 11/18/2006	Immediately
Research Scholar/ Professor (J-1)	6 months or less	After 11/18/2006	After 24 months from the EV's Program End Date or Effective Date of Completion **
Research Scholar/ Professor (J-1)	More than 6 months	Prior to 11/18/2006	After 12 months from the EV's Program End Date or Effective Date of Completion **

that unlike in case of a research scholar program, the visitor is not subject to the two-year bar for a repeat participation in the same or another J1 category. However, the visitor may be subject to the repeat participation in the same category and with the same sponsor. The two-year home-country physical presence requirements may apply to a short-term scholar.

### **H1B visa (temporary workers for specialty occupation)**

CSHL sponsors the overseas appointments for a H1B visa, which is defined as a temporary working visa for a person working in a specialty occupation or profession. In the usual case, employment categories such as faculty positions, IT professionals, lab technicians and foreign nationals coming to work at the Laboratory in the category other than that of a student, visiting student or other temporary/non-employee positions are eligible for an H1B visa. A Post Doctoral fellow will qualify for an H1B visa only if s/he

1. does not qualify for a J1 visa
2. is already present in the United States on a valid legal status, and will change visa status in the United States
3. Requires extension of stay after completing 5 years on a J1 and is not subject to the two-year home residence requirement.

The H1B visa holders do not need to prove their intent to return to their home country and may intend to immigrate to the U.S. They may change their status in the U.S and may also apply for a permanent residence (green card) through their employment or through other means. There are three factors that determine whether a proposed job is in a specialty occupation or profession:

1. Whether a Bachelor's degree or advanced degree is required to perform the job duties
2. Whether the degree requirement is common in the industry for the position
3. Whether the employer normally requires a degree or specialized experience for the position.

And once it is determined that the job is a specialty occupation, we need to prove that the applicant has the necessary education and/or experience to perform the job duties.

Obtaining an H1B visa is usually a long, time-consuming process. The Laboratory needs to file a H1B (I-129) petition with the USCIS and their processing time for this type of case is usually 60-120 days or longer. Therefore a minimum of 7 (seven) months time should be allowed for an H1B application. The Laboratory may petition for an employee for an appointment of up to three years, with an extension to a total maximum of six years. The certificate of eligibility in this case is the form I-797 (H1B) approval notice from the USCIS that is required for a H1B visa application at the US consulate abroad. The H-4 visa is available for dependents of a H1B visa holder. The dependent of an H-1B

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**Premium Processing of an H1B application**

The USCIS provides a premium processing service for an H1B application at an additional cost of \$1000 (in addition to the regular processing fee of \$820). The usual processing time of an application filed under premium processing program is 15 days. The Laboratory does not pay for or reimburse to the applicant the cost of the premium processing fee. This fee must be paid by the applicant.

**TN visa (Canadians and Mexicans)**

TN status is available only to Canadian and Mexican citizens. Unfortunately, the procedures for obtaining TN status are not the same for Canadians and Mexicans. In short, the only reason for a Mexican citizen to apply for TN status rather than H-1B status is if the H-1B annual quota has been reached or if the candidate does not otherwise qualify for H-1B status. Therefore, this information is directed mainly at Canadian citizens (Canadian landed immigrants and non-Canadian citizens must apply for H-1B status).

In order to obtain TN status, a person must be able to prove that he is coming to work in an occupation that is on the NAFTA professions list, that he possesses the specific criteria for that profession, and that he will be engaged in business activities at a professional level for a U.S. employer. Self-employed individuals are generally not eligible for TN status. However, if you are self-employed and are going to do work for a U.S. entity, you may be eligible for TN status. Spouses and unmarried, minor children of the TN principal are eligible for TD status. TD nonimmigrants are not authorized to accept employment in the U.S., including self-employment.

Application for TN status is made at a border port-of entry, such as an airport or bridge. You must show proof of your citizenship (Canadian passport or birth certificate is sufficient), proof of minimal educational requirements and credentials for the professions category that you are applying under (originals or certified copy of degree, license, transcripts, etc.), a job offer letter from Cold Spring Harbor Laboratory outlining the proposed job duties and a TN support letter from the Laboratory's immigration office.

TN status is usually valid for three years at a time, and there is no limit to the number of times the status can be renewed. However, some TN visa applicant may receive only one-year multiple entry with no limit to the number of renewals. You cannot file for a U.S. permanent residence application while on TN status. For more information, please visit [http://travel.state.gov/visa/temp/types/types\\_1274.html](http://travel.state.gov/visa/temp/types/types_1274.html)

**O-1 visa (aliens with extraordinary ability)**

O 1 visas are available to applicants who can show they have extraordinary ability as demonstrated by sustained national or international prominence in their field for several years. The applicant must work in the following fields in the U.S. to qualify for an O visa: science, art, education, business, or athletics. To qualify for an O-1 visa, an applicant must provide documents proving extraordinary ability. Examples of proof of

extraordinary ability include nationally or internationally recognized prizes or awards for excellence, membership in associations requiring outstanding achievements, and articles written by or about the applicant. There are special requirements for artists and entertainers. O-1 visa applicants do not have to prove that they will not abandon their foreign residence. Before an O visa can be granted, the applicant must go through a special consultation process. The applicant must get an "advisory opinion" from a peer group (a group of individuals in the alien's occupation or profession), or a union, labor, or management organization. An "advisory opinion" is a letter from an organization, which states that the positions the applicants will hold requires extraordinary ability and that the applicant has extraordinary ability.

The O-1 visa holder may remain in the US until the event; project or activity for which the alien is admitted is completed. The initial period of stay can be sought for three years and thereafter extensions in one-year increments may be sought to complete the activity, event or project. O-2 visas are available for the support personnel of O-1 visas holders in order for them to perform their job. O-3 visas are available for dependents of O-1 visa holders.

### **F-1 visa (foreign students)**

F-1 visas are available for applicants intending to be full-time students at Watson School of Biological Sciences. CSHL/WSBS is a SEVIS (Student and Exchange Visitor Information System) approved school for sponsoring foreign students who have been admitted to the WSBS.

B-2 visas are for aliens who are entering the U.S. for pleasure or tourism.

No CSHL paid employment is permitted on a B-1 or B-2 visa. Although the Laboratory does not stand as the sponsor for this type of visa, a letter of invitation from the Institution is needed by visitors who apply for a B-1 visa at the US Consulate in their home country. Applicants for the B-2 visa should apply at the US Embassy or Consulate in their home country. A B-1 visa holder may stay in the US for a "reasonable" period of time for completion of the purpose of the trip, not to exceed the duration authorized by the immigration officer. A B-2 vi

need for additional screening at the time they submit their applications and are being advised to expect delays. The time needed for adjudication of individual cases is difficult to predict. We recommend that individuals build in ample time before their planned travel date when seeking to obtain a visa. The State Department is working hard with other government agencies to rationalize clearance procedures in ways that continue to protect US borders, the first priority, while facilitating legitimate travel. The applicants should understand that this waiting period is necessary as the Department strives to make every effort to ensure the safety and security of the United States for all who are here, including foreign visitors.

Effective January 1, 2004, foreign visitors arriving in the U.S. will have their photos and fingerprints taken and travel documents scanned as a part of the U.S. Visitor and Immigration Status Indication Technology (U.S. VISIT program). These measures will apply to those entering the U.S. on a visa. The purpose of this program is to give the government a better idea on who is entering and leaving the U.S.

### **Student and Exchange Visitor Information System (SEVIS)**

CSHL/WSBS is a DHS and DOS authorized foreign students and exchange visitors program sponsor, known as SEVP (Student and Exchange Visitor Program) sponsor. A partnership project, SEVP is a joint venture between the Department of Homeland Security, the Department of State, and the Department of Education.

A principal part of SEVP is an Internet-based system, the Student and Exchange Visitor Information System (SEVIS), which provides tracking, monitoring, and access to accurate and current information on non-immigrant students (F and M visa) and exchange visitors (J visa). SEVIS enables schools and program sponsors to transmit electronic information and event notifications via the Internet to the DHS and the Department of State throughout a student or exchange visitor's stay in the United States. SEVIS allows printing of the appropriate forms (I-20 for foreign students and DS-2019 for exchange visitors) and also provides reminders, alerts, and basic reporting capabilities. Please click on the following link for Frequently Asked Questions on SEVIS ([link??](#))

### **Duration of stay in the United States:**

Many individuals have difficulty understanding the difference between the visa expiration date and the length of time you have permission to remain in the United States on a legal status as authorized by the USCIS at the port of entry in the United States. A visa holder must understand the concept of the visa and status. Under immigration law, the two concepts are distinct, even though in discussions, the word "visa" and the word "status" are used interchangeably. The word "visa" in immigration law refers to the visa stamp issued by the U.S. consulate in the foreign country, which enables a person to board a flight to the U.S. On the other hand, "status" is given by the USCIS officer at the port of entry when a person arrives in the U.S. to allow the person to enter the U.S. The real entry permit is the Form I-94 (Arrival/Departure Record) that gets stapled to the passport at the port of entry. This card provides the person valid legal status to remain in the U.S. for the duration of time mentioned, that is, tells you how long you may stay in the U.S. during that visit.



In general, a Research Scholar coming to United States on J-1 visa will be issued a I-94 for D/S (Duration of Status), which means he/she can stay and work in United States for the duration of the program as listed on the DS-2019 and for the period of extension approved by the Responsible Officer in coordination with the Department of State (not to exceed the three and half year limit on the total duration of the program) and a Research scholar coming to the U.S. of H1B will be issued a I-94 with the date of expiry as noted on his/her form I-797 (H1B approval notice from INS) or an expiry date noted on his/her H1B visa.

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