

H-1 OR J-1 VISA – A COMPARISON

• A VISA GUIDE FOR FOREIGN POSTDOCTORAL APPOINTMENTS: H-1B OR J-1 SCHOLAR? –

	H-1B	J-1 Scholar
DURATION	<ul style="list-style-type: none"> • Visa appointment start and end dates must match postdoc appointment start and end dates • The initial period is 3 years with a possible extension of an additional 2 years per the 5-year term limit on postdoctoral status at Stanford. Exceptions may be granted for up to an additional year if there is a change in field. 	<ul style="list-style-type: none"> • Visa appointment start and end dates must match postdoc appointment start and end dates • Maximum duration is 5 years. There is NO extension possible
FUNDING TYPE RESTRICTIONS	<ul style="list-style-type: none"> • Holder must receive Stanford's payroll wages. • No fellowship/stipends allowed. 	<ul style="list-style-type: none"> • May receive wages or fellowships/stipends
FUNDING MINIMUMS	<ul style="list-style-type: none"> • Stanford's appropriate funding level based on the years of postdoctoral research experience required • Minimum funding level may be higher based on the Labor Condition Application for H-1B sponsorship 	<ul style="list-style-type: none"> • Stanford's appropriate funding level based on the years of postdoctoral research experience required
MINIMUM QUALIFICATIONS	<ul style="list-style-type: none"> • PhD 	<ul style="list-style-type: none"> • PhD
CAN A DEPENDENT WORK?	<ul style="list-style-type: none"> • Dependents of H-1B visa holders (H-4 visa holders) are not authorized to work in the United States. 	<ul style="list-style-type: none"> • Dependents of J-1 visa holders (J-2 visa holders) can be authorized to work in the United States with employment permission from USCIS
CURRENT COSTS USCIS fees and US Visa Application fees can change.	<ul style="list-style-type: none"> • University Fee for Approved Personal Preference H-1Bs for post-doctoral scholars: \$900 • USCIS Fee: \$325 • Anti Fraud Fee: \$500 • Premium Processing Fee (Optional): \$1225 (Check changes to USCIS fee, anti fraud fee or Premium processing fee http://icenter.stanford.edu/depts/h_status_step2.html#fees) • US Visa application Fee: \$140. (Check changes to visa application fee: http://travel.state.gov/visa/temp/types/types_1263.html) 	<ul style="list-style-type: none"> • University Fee for Visiting Scholar sponsorship: \$125 • SEVIS Fee: \$180 (Check here for any changes to SEVIS fee: http://www.ice.gov/sevis/i901/faq3.htm#_Toc81222012) • US Visa Application Fee: \$140 (Check changes to visa application fee: http://travel.state.gov/visa/temp/types/types_1263.html)
CONSIDERATIONS	<ul style="list-style-type: none"> • H-1B Review Board must receive supporting evidence to review personal preference petitions before Stanford may sponsor an application. • Department will be responsible for all fees other than the US Visa Application Fee • If approved, the Department of Labor and USCIS also require: <ul style="list-style-type: none"> ○ Labor Condition Application ○ Employer/Employee Relationship ○ Prevailing Wage ○ Salary Guarantee ○ Return flight home if position is terminated early by Stanford 	<ul style="list-style-type: none"> • Default and appropriate visa for foreign postdocs. Approval requires review of the postdoctoral appointment by Office of Postdoctoral Affairs. • Upon completion of the postdoctoral appointment, the J-1 holder may have a 2-year home country requirement (must return home/be outside the United States for two years post completion of program). • Insurance requirements by the Department of State apply to holders with coverage from home country
HOW LONG CAN SOMEONE REMAIN IN THE U.S. AFTER THE END OF HIS/HER H-1B OR J-1?	<ul style="list-style-type: none"> • No legal grace period. 10 days is generally accepted, but no regulatory or legal basis. • If the appointment is completed prior to this date, the individual should leave the U.S. immediately. • Applicable only if the J-1 or H-1 beneficiary completes the appointment on the completion date specified on their H-1 approval notice or DS-2019. 	<ul style="list-style-type: none"> • 30 days • If the appointment is completed prior to this date, the individual should leave the U.S. immediately. • Applicable only if the J-1 or H-1 beneficiary completes the appointment on the completion date specified on their H-1 approval notice or DS-2019.

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	H-1B	J-1 Scholar
CAN AN H-1B OR A J-1 VISA HOLDER WORK AT AN OFF CAMPUS LOCATION AND BE PAID?	<ul style="list-style-type: none"> • Can only work under Stanford's sponsorship. • Other company or institution may file concurrent H-1B only upon approval from the Office of Postdoctoral Affairs due to the full-time commitment required from postdoctoral scholars. 	<ul style="list-style-type: none"> • If research is collaborative between Stanford and other institution, the scholar may work after getting approval from the post doc office and Bechtel International Center. • Work beyond the scope of the postdoctoral appointment, or incidental activity, must first be approved by the Office of Postdoctoral Affairs and Bechtel International Center This is typical in case of short consulting opportunities or teaching.
CAN AN H-1B OR J-1 VISA HOLDER AT STANFORD EASILY MOVE TO ANOTHER INSTITUTION?	<ul style="list-style-type: none"> • Since the H-1 is an employer-sponsored visa, the new institution would have to file a new H-1B petition. • If the new institution/employer is subject to the H-1B cap, it may delay the petition for several months. 	<ul style="list-style-type: none"> • J-1 holders may change sponsors in the same J-1 category with the approval of both sponsors. There is relative ease of transfer to another J-1 position at a different university. • Cannot change immigration status to H-1B if the 2-year home rule applies.
WHAT ARE THE UNIVERSITY'S OBLIGATIONS?	<ul style="list-style-type: none"> • Prevailing Wage • Public Access File • Early Departure – return airfare home if terminated early • Any substantive changes to terms of duties or responsibilities require amendment with USCIS (and possibly a different prevailing wage determination) 	<ul style="list-style-type: none"> • Confirming the physical presence of the J-1 holder on campus. Arrival verification • Offering some form of orientation information • Clear instructions on necessity of health insurance for J-1 and any dependents • Other reporting requirements as determined by federal agencies
WHAT ARE THE SCHOLAR'S OBLIGATIONS	<ul style="list-style-type: none"> • Post-docs in H-1B status must not accept changes to the original employment/appointment conditions (hours of work, salary, home department) without consulting with Office of Post-doctoral Affairs and Bechtel International Center 	<ul style="list-style-type: none"> • Current address must be entered in AXESS and be maintained at all times • If not receiving medical insurance through the Stanford postdoc plans, the scholar must maintain insurance levels according to the set requirements by the Department of State
ADVANTAGES	<ul style="list-style-type: none"> • No 2-year home country requirement • Dual intent category: immigrant/non-immigrant which permits sponsorship of Permanent Resident applications 	<ul style="list-style-type: none"> • Allows receipt of fellowships • Easier to manage in case the postdoc is engaged with project across institutions, or plans to move to a different institution • Ease of transfer to another university • Ability to lecture and consult • J-2s can apply for work permission • Can prolong the duration of stay in the US if 2-year home country rule is waived as 5 years of J-1 status may be followed by 6 years in H-1B status • Fewer compliance and risk issues/ liabilities
DISADVANTAGES	<ul style="list-style-type: none"> • Undermines preparation for an independent research/faculty career: cannot compete for or receive fellowships at all, either at Stanford, nationally or from home country • H-4's cannot work in the US • Costly, in both processing and possibly prevailing wage • Significant compliance requirement for the faculty sponsor 	<ul style="list-style-type: none"> • May subject individual to 2 year home residency requirement