

7. Program Restrictions ~ (INA 212(e) and the 12 Month Bar

12-Month Bar:

J-1 scholars and researchers may not return to the United States in the same categories if they were present in the US for any part of the preceding 12 months. This bar does not apply to Short-Term Scholars.

212(e) two year physical presence

You may be subject to INA 212(e) if:

1. Your program is funded by the United States Government, your foreign government, or an international organization.
2. The exchange program listed in item 3 of your DS-2019 appears on the Exchange Visitor Skills List: <http://www.state.gov/documents/organization/87381.pdf> as amended for your country.
3. January 10, 1977 you applied and were granted a J-1 visa to receive graduate medical education or training.

Two-Year Foreign Residency Requirement – INA 212(e):

http://www.travel.state.gov/visa/temp/info/info_1288.html(INA 212(e))

If you are subject to the two-year foreign residence requirement, you may not change your status to that of H, L, or K, or to immigrant or legal permanent status until you have fulfilled the two-year foreign residence requirement by going back to your home country or receiving a waiver of this requirement.

Unlawful Presence (over stay):

180 – 360 days 3 years; 360 days + 1 day = 10 years

Unlawful presence: is time spent in the United States following entry without inspection or after the expiration of an alien's I-94.

The "3 and 10 year bar" to reentry is part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRAIRA") of 1996. It states that an alien who accrues more than six months (180 days), but less than one year (-360 days) of "unlawful presence" in the United States, will be barred from readmission to the United States for a period of three years, and any alien having accrued more than one year of such "unlawful presence" will be barred from readmission for ten years.

[Please consult with the RO or ARO about these complicated details.](#)