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Alternatives to the H1b: J1 visas for interns and trainees

Lost the H1B visa lottery? Maybe you qualify for a training visa.

By Christopher Kerosky, Esq.

This article is the third in a weekly series I am publishing presenting the alternatives to the H1B professional visa for those who missed the deadline to apply or who applied and were not lucky enough to be selected in the H1B visa lottery, as a result of the quota on the visas. This article is about the J1 visa alternative for interns, trainees and related options.

The exchange visitor (J1) nonimmigrant visa category covers a wide range of categories of persons including physicians, university professors and scholars, professional interns, students, au pairs, camp counselors, and summer work/travel visitors. All of these visas have different requirements and conditions.

The two most relevant for professionals are “trainees” and “interns”. These are both visas where one can live and obtain “training” on the job for an employer, and bring one’s family to live with them in the United States. These visas are valid for 12-18 months and so they can be used to allow someone to stay in the US, remain with the employer as long as it is validly characterized as “training” and apply for an H1B visa next year.

We will summarize the general requirements and procedures here.

Trainee J-1 visas.

One type of J-1 that may be an alternative for many H1B applicants is the Trainee J-1. It is valid for 18 months in the U.S., during which time the applicant can re-apply for an H1B the following year.

Trainee J-1 visas are available to persons with a college degree and at least one year of related work experience, or five years of work experience in the field.

Internship J-1 visas.

The other type of J-1 visa that can be useful to unsuccessful H1B applicants is the Internship J-1, valid for 12 months of training in the U.S.. The purpose of the Internship J-1 is to allow currently-enrolled college students or recent graduates to come to the U.S. and obtain practical training in U.S. businesses. The training must be in their field of study. In order to qualify the applicant must be currently enrolled in a degree program or have graduated from

Two-Year Foreign Residency Requirement

An exchange visitor who is a national of a country designated as having a shortage of persons with the trainee's specialized knowledge or skills is at risk of having a two-year residency requirement imposed, to apply after their J-1 visa expires. That means that, after finishing their J-1 internship, the foreign national is required to spend two years back home before applying for permanent residence in the U.S. Applicants should seek legal advice in order to avoid this possibility before applying.

Unlike other visas, the J1 visa requires a pre-approval process conducted by outside agencies certified by the Department of State under the Exchange Visitor Program as “sponsors”. Before you can apply at an American Embassy or Consulate for a J visa, you must apply, meet the requirements, and be accepted for one of the Exchange Visitor Program categories through a designated sponsoring organization. These “program sponsors” charge a fee for handling the process. These sponsors are separate and apart from any business or academic institution or other employer who may be providing the training.

Also unlike most other visas, the J visa is generally not available through the Department of Homeland Security for persons already in the U.S. Generally speaking, you will be required to go to a U.S. Consulate abroad to get your J visa. But the process is started in the U.S. through the sponsoring agency procedure so that the application is vetted before the application with the Consulate is submitted.

WARNING: The above is a summary discussing legal issues. It is not intended to be a substitute for legal advice. We recommend that you get competent legal advice specific to your case.

