

UTHSCSA Graduate Medical Education Policies

Section 2	General Policies & Procedures	Effective:	April 2004
		Revised:	August 2011
Policy 2.1.14.	Resident Visas	Responsibility:	Associate Dean for Graduate Medical Education
Resident Visas			
Policy	<p>Residents in UTHSCSA ACGME-accredited programs who are not United States citizens must have lawful permanent resident (LPR) status or a non-immigrant visa that is appropriate for graduate medical education. <u>The preferred visa is the J-1 visa status, sponsored by ECFMG.</u> Immigration policy and regulation changes often, and thus non-citizen medical residents <u>must</u> maintain communication with the UTHSCSA Office of International Services (OIS), which will provide administrative oversight and support for all visa-related matters. If a non-citizen trainee loses or violates lawful status, he/she may be terminated from the training program.</p> <p>All international medical graduates (IMGs) who are graduates of non-LCME medical schools, must obtain ECFMG Certificates before entry into residency programs. The ECFMG certificate provides assurance to residency programs and to the people of the U.S. that IMGs have met minimum standards of eligibility required to enter programs.</p> <p>Under exceptional circumstances, a residency program may wish to train a resident or host a clinical fellow who does not have J-1 visa status. The primary alternative visa is the <u>H-1B1 visa</u>. Administrative and financial costs associated with support of the H-1B visa are significantly greater than for the J-1 visa, and the decision to financially support a resident's H-1B visa will rest with the training program and the associated Department. (Please see appendix for a list of specific responsibilities of the employer for H-1B and J-1 visa holders.) An important distinction is that the resident's employer is responsible for this greater financial and administrative support. University Health System (UHS) will not serve as paymaster (provide salary or benefits) to an individual on an H-1B visa, and thus these responsibilities will fall upon the department in which the individual will train.</p> <p>If a program is willing to undertake these costs and the regulatory and compliance requirements associated with H-1B visa status, the program director must submit a written Request for Waiver of J-1 Visa to the GME Office via the Office of International Services. The written request must be signed by the program director, department chair, the individual, and the OIS and must be made at least ninety (90) days before the resident's proposed date of appointment. The request will be reviewed by the Associate Dean for Graduate Medical Education (ADGME) within ten (10) working days of its receipt by the GME Office and will communicate a decision to the program director. In the event of a negative decision by the</p>		

ADGME, the program director may appeal the decision to the GMEC at the next scheduled meeting. The GMEC shall be the final ruling body. Approval for a waiver will be for the duration of the proposed program only. The program director must await approval of the request before making a commitment to the applicant.

Anticipated steps in the process include the following:

1. All customary GME requirements have been met - applicant has been interviewed and found to be qualified for the program, including having passed a security background check and other requirements, etc.
2. Request for waiver of J-1 requirement - if request is approved, the following:
 - a. Program prepares written job description so that OIS can submit a job description to determine prevailing wage from Department of State
 - b. Program prepares UTHSCSA contract - an annual contract with all required elements of the resident contract (form available from GME Office); salary and benefits must be managed by UTHSCSA Human Resources
 - c. Program posts a statement to notify others in the department of its intention to hire an H-1B visa holder
 - d. Program pays all internal and external processing fees for the H-1B application;
 - e. Program agrees to pay prevailing wage - this may be significantly more than the salary earned by other residents at the same level of training;
 - f. Program agrees to provide cost of return transportation abroad, if resident is dismissed before petition period expires;
 - g. OIS provides administrative support

Appendix 1: Information from Office of International Services, UTHSCSA

The Specific Responsibilities of an Employer for H-1B

1. An offer of employment must be submitted to the OIS
2. Determining the Actual Wage
3. Request the Prevailing Wage from DOL
4. The Department must agree to pay the required wage
5. Deductions from the wage required by law, e.g. income tax, FICA, etc.
6. Pay the H-1B filing fees (including attorney fees if any) and any other fees required by law
7. Pay the required wage during any non-productive periods, e.g. training, lack of license, lack of assigned work, etc.
8. The employment of H-1B will not adversely affect the working conditions of similarly employed individuals in the area of intended employment

9. There must be no lockout at the time of filing H-1B
10. Department must notify its employees of the intention to hire H-1B
11. The OIS must complete an LCA
12. The Department is responsible for the cost of return transportation abroad if alien is dismissed before petition period expires
13. Support an extension of H-1B stay if needed
14. The Department must insure that the H-1B resident does not “moonlight” during the period of H-1B employment

The Specific Responsibilities of an Employer for J-1 Visa Status

1. Inform the OIS of any changes in the training program, including failure to advance, remediation, clinical-to-research status, or any other change in program. This communication must occur before any changes may occur.
2. The OIS must provide accurate information to the ECFMG and to the DOS

The Clerical and Administrative Responsibilities of an Employer for H-1B and J-1

1. Provide staffing and support services to assist the OIS in its compliance mandate
2. Provide information to GME and the OIS in a timely manner
3. Furnish the employment-related support documents for H-1B and J-1 holders' non-immigration or immigration needs
4. Offer most of the services provided with regular employees
5. Keep all records required by regulations

The Specific Responsibilities of ECFMG

- I. H-1B1
 1. Trainee must pass USMLE Steps 1 and 2. Trainee must pass Step 3 in time to meet the licensure requirement for residents.
 2. Competency in oral and written English by passing an English proficiency Examination, i.e. TOEFL
- II. J-1
 1. Issue Form DS-2019 to the trainee
 2. Trainee must pass USMLE Steps 1 and 2. Trainee must pass Step 3 in time to meet the licensure requirement for residents.
 3. Competency in oral and written English by passing an English proficiency Examination, i.e. TOEFL

Form: [Request for Waiver of Policy on J-1 Visas](#)