

I-612, Application for Waiver of the Foreign Residence Requirement [Under Section 212(e) of the INA, as Amended]

Department of Homeland Security

U.S. Citizenship and Immigration Services

Instructions

This application may be submitted only by an alien who believes that compliance with the foreign residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended, would impose exceptional hardship on his or her spouse or unmarried child(ren) under the age of 21 who is a citizen of the United States or a lawful permanent resident of the United States, or by an alien who believes that returning to the country of his or her nationality or last residence would subject him or her to persecution on account of race, religion or political opinion.

NOTE: Please read these instructions carefully. The application fee will not be refunded.

1. Foreign Residence Requirement.

In order to be eligible to apply for an immigrant visa or for permanent residence in the United States, or for a nonimmigrant visa as a temporary worker under section 101(a)(15)(H) or section 101(a)(15)(L) of the INA, certain exchange visitors (visa symbols J-1 and J-2) must reside and be physically present in the country of their nationality or last foreign residence for an aggregate of at least two years following departure from the United States.

You, as an exchange visitor, are subject to the two-year foreign residence requirements under Section 212(e) of the INA if:

- Your participation in the exchange program was financed at any time in whole or in part, directly or indirectly, by an agency of the U.S. Government or by the government of your country of nationality or last foreign residence; **or**
- Prior to issuance of an exchange visitor visa, or admission as an exchange visitor without a visa, or acquisition of status as an exchange visitor, to participate in an exchange program, your country of nationality or last foreign residence was designated by the U.S. Secretary of State as clearly requiring your specialized knowledge or skill; **or**
- You entered the United States as, or changed status to that of an exchange visitor on or after January 10, 1977, to participate in graduate medical education or training

Inquiries and Information

If you are a participant in an exchange program and subject to the two-year foreign residence requirement under 212(e) of the INA, your spouse and unmarried minor child(ren) who were admitted as exchange visitors or acquired such status after admission are also subject to this requirement. If you have any question as to whether you are subject to the two-year foreign residence requirement,

the nearest U.S. Citizenship and Immigration Services (USCIS) office or American embassy or consulate will respond to your concerns.

If you believe that a U.S. Government agency may be officially interested in your case and may wish to request a waiver on your behalf, you should inquire directly to that agency concerning such request.

If you seek a waiver of the foreign residence requirement on the basis that the foreign country of your citizenship/nationality or last foreign residence has no objection to the waiver, you should, if in the United States, apply directly to the embassy of the country concerned; or if abroad, you should inquire at your foreign ministry.

2. Eligibility for Waiver of the Two-Year Foreign Residence Requirement.

Waiver of the two-year foreign residence requirement under Section 212(e) of the INA may be authorized only under the following circumstances:

- You have a U.S. citizen or permanent resident spouse or unmarried minor child(ren) and you establish in an application to USCIS that compliance with the two-year foreign residence requirement would impose exceptional hardship on such spouse or child(ren).
- You establish in an application to USCIS that returning to your country of nationality or last foreign residence would subject you to persecution on account of race, religion or political opinion.
- A U.S. government agency requests the Department of State to recommend a waiver on your behalf for the reason that compliance with the two-year foreign residence requirement would be detrimental to a program or activity of official interest to the agency.

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- The country of your nationality or last foreign residence furnishes the Department of State a written statement that it has no objection to the waiver.
- A State Department of Public Health, or its equivalent, or an interested U.S. government agency, requests the Department of State to recommend a waiver on your behalf as one who came to the United States or acquired status in order to receive graduate medical education or training, subject to the requirements of Section 214(l) of the INA.

In no case may the two-year foreign residence requirement be waived unless a favorable recommendation is made by the Department of State.

NOTE: The Form I-612 may be submitted by an alien for the purpose of establishing exceptional hardship to his or her spouse or unmarried child(ren) under the age of 21 who is a citizen of the United States or a lawful permanent resident of the United States, or establishing that returning to his or her country of nationality or last foreign residence would subject him or her to persecution on account of race, religion or political opinion. See "Inquiries and Information" for on Page 1 for details.

3. Submission of Application.

Mail your completed applications for exceptional hardship and/or persecution claims to the California Service Center.

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
California Service Center
P.O. Box 30111
Laguna Niguel, CA 92607-0111

OR

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
California Service Center
24000 Avila Road, 2nd Floor, Room 2312
Laguna Niguel, CA 92677

4. Your Spouse or Unmarried Minor Child(ren).

If your spouse or child(ren) is or was an exchange alien who is subject to the foreign residence requirement solely because of a relationship to you, he or she may be included in this application by checking "A" in **Block 6** of Form I-612. If your spouse or child(ren) is subject to the foreign residence requirement because of participation in an exchange program, your spouse or child(ren) may apply for a waiver of the foreign residence requirement by

submitting a separate application on a separate Form I-612 for each individual. In such case, "**B**" should be checked in **Block 6** on each application.

If you are in the United States, you must submit your temporary entry permit (Form I-94, Arrival-Departure Record) and the entry permit of your spouse and child (ren), if he or she is in the United States and not a U.S. citizen or lawful permanent resident. If the entry permit is attached to the passport, remove and submit it for this purpose. **Do not submit the passport.**

5. Preparation of Application.

The Form I-612 must be typed or printed legibly in black ink, using block letters. If you are claiming exceptional hardship on your U.S. citizen spouse or child(ren) or your lawful permanent resident spouse or child(ren), **Part 13** must be completely filled out identifying your spouse, if any, and **Part 14** must be filled out identifying your child (ren), if any. Please annotate the date and country of birth of your spouse and child(ren) as well as the nationality/citizenship of your spouse and child(ren). If you are claiming you cannot return to your country of nationality or last foreign residence because you would be subject to persecution on account of race, religion or political opinion, **Parts 13 and 14** may be left blank. You must sign and date the Form I-612. The Form I-612 must be signed and dated by the preparer, if someone other than you filled out the Form I-612.

6. Documents in General.

You should submit legible copies of any and all original supporting documents. Originals should only be provided when asked for specifically. Any document in a foreign language must be accompanied by a translation in English. The translator must certify that he or she is competent to translate and that the translation is accurate.

7. Supporting Documents.

The following documents must be submitted with the Form I-612:

A. Documentation to prove the U.S. citizen or lawful permanent residence status of your spouse or unmarried child(ren) under age of 21 (if you selected "A" in Block 5 of Form I-612):

- If your spouse or child(ren) is a citizen by reason of birth in the United States, submit:
 - A birth certificate of your spouse or child(ren); **or**

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- If a birth certificate is unobtainable, a copy of the baptismal certificate (baptism must have occurred within two months after birth) under seal of the church, showing the place of birth; **or**
 - If the birth or baptismal certificate cannot be obtained, affidavits of two U.S. citizens who have personal knowledge of the birth of your spouse or child(ren) in the United States.
- If your spouse or child(ren) was born outside the United States, became a citizen of the United States through a parent, and has not been issued a certificate of citizenship, submit evidence of the citizenship and marriage of parent, as well as termination of any prior marriages of parent, and the birth certificate of the child(ren). Also submit a separate statement showing the dates, ports of entry and means of all arrivals and departures into and from the United States by your U.S. citizen or lawful permanent resident spouse or child(ren).
- If the naturalization of your spouse or child(ren) occurred within 90 days immediately preceding the filing of this application, submit a copy of the naturalization certificate.
- If your spouse or child(ren) is a lawful permanent resident of the United States, submit:
- A copy of the front and back of their Form I-551, Permanent Resident Card; **or**
 - If they do not have a Form I-551, submit copies of the pages of their passport containing an admission stamp showing entry as or adjustment to a lawful permanent resident (LPR), as well as the biographic page of the passport; **or**
 - If they do not have a passport, submit any other available evidence of their lawful permanent resident status.

B. Documentation to prove a relationship between you and your U.S. citizen or lawful permanent resident spouse or unmarried minor child(ren) (if you selected "A" in Block 5 of Form I-612):

Every application must be accompanied by a certificate of marriage to your spouse and proof of legal termination of all previous marriages for both you and your spouse. If the application is based on hardship to your U.S. citizen or lawful permanent resident child(ren), also submit the birth certificate(s) of the child(ren).

C. If you cannot return to your country of nationality or of last foreign residence because the compliance with the two year foreign residence requirement would impose exceptional hardship on your U.S. citizen or lawful permanent resident spouse and/or child(ren):

- Submit a statement from you, dated and signed, detailing how your compliance with the foreign residence requirement would impose exceptional hardship on your U.S. citizen or lawful permanent resident spouse and/or child(ren). Please describe the exceptional hardship from two perspectives:
- How it would impact your spouse and child(ren) if they remain in the United States while you are away for two years; **and**
 - The impact if they choose to accompany you to your home country for two years.
- If the hardship is based on a medical condition of your U.S. citizen or lawful permanent resident spouse and/or child(ren), submit a statement from a physician describing the condition, its effect on the patient's day-to-day life and explaining the treatment and the length of time treatment would be required.
- If your and/or your spouse's income and savings are pertinent to a finding of hardship, provide a statement containing relevant information about the income and savings.
- You may submit any documentary evidence available that you believe affects the exceptional hardship.

D. If you cannot return to your country of nationality or of last foreign residence because you would be subject to persecution on account of race, religion or political opinion:

- Please detail this information in your own dated and signed statement. Please provide as much detail as possible. If you have any documentation to support your assertions, please provide them as well.
- In addition to your own required statement, you may submit any documentary evidence available that you believe affects the persecution issues.

8. Penalties.

Upon signing the application in **Part 16** of the Form I-612, you certify under penalty of perjury under the laws of the United States of America that all statements made in the Form I-612 as well as any supporting evidence or documentation are true and correct.

Severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact or using any false document in the submission of an application.

9. USCIS Forms and Information.

To order USCIS forms, call our toll-free forms line at **1-800-870-3676**. You can also get USCIS forms and information on immigration laws, regulations or procedures by calling our National Customer Service Center at **1-800-375-5283** or visiting our internet website at **www.uscis.gov**.

10. What Is the Fee?

A fee of **\$265.00** must be paid for filing this application.

The fee cannot be refunded regardless of the action taken on the application. **Do not mail cash. All fees must be submitted in the exact amount.**

Payment by check or money order must be drawn from a bank or other institution located in the United States and be payable in United States currency.

If you reside in Guam, the check or money order must be payable to the "Treasurer, Guam."

If you reside in the U.S. Virgin Islands, the check or money order must be payable to the "Commissioner of Finance of the Virgin Islands."

All other applicants must make the check or money order payable to the **Department of Homeland Security**.

When the check is drawn on account of a person other than the applicant, the name of the applicant must be entered on the face of the check. If the application is submitted from outside the United States, remittance may be made by bank international money order or foreign draft drawn on a financial institution in the United States and payable to the **Department of Homeland Security** in U.S. currency.

Personal checks are accepted subject to collection. An uncollected check will render the application and any document issued pursuant thereto invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

How to Check If the Fee Is Correct.

The fee on this form is current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fee is correct by following one of the steps below:

- Visit our website at **www.uscis.gov** and click on "Immigration Forms" to check the appropriate fee; or
- Review the Fee Schedule included in your form package, if you called us to request the form; or
- Telephone our National Customer Service Center at **1-800-375-5283** and ask for the fee information.

11. Use InfoPass to Make an Appointment.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our internet-based system, **InfoPass**. To access the system, visit our website at **www.uscis.gov**. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen. Print the notice and take it with you to your appointment. The notice gives the time and date of your appointment, along with the address of the USCIS office.

12. Public Reporting Burden.

A person is not required to respond to a collection of information unless it displays a currently valid OMB number. The reporting burden for this collection of information is estimated to average 20 minutes per response, including the time of reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have suggestions on how to reduce this burden or to make the form simpler, write to the U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529; OMB No. 1615-0030. **Do not mail your completed application to this address.**

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7. List all program numbers and names of *all* program sponsors.

8. Major field of activity (*Check one*)

- | | | |
|--|--|--|
| <input type="checkbox"/> (1) Agriculture | <input type="checkbox"/> (4) Engineering | <input type="checkbox"/> (7) Natural and Physical Sciences |
| <input type="checkbox"/> (2) Business Administration | <input type="checkbox"/> (5) Humanities | <input type="checkbox"/> (8) Social Sciences |
| <input type="checkbox"/> (3) Education | <input type="checkbox"/> (6) Medicine | <input type="checkbox"/> (9) Other |

9. Occupation

10. Date and port of last arrival in the United States as a participant in a designated exchange program.

11. If you are now abroad, give date of departure from United States.

12. Number of prior marriages of applicant _____

If married, number of prior marriages of applicant's spouse _____

13. Name of Spouse	Date and Country of Birth	Nationality/Citizenship	Country of Last Foreign Residence
14. Names of Children	Date and Country of Birth	Nationality/Citizenship	Country of Last Foreign Residence

15. If you checked "A" under **Number 5** on **Page 1** of this form, provide the following information concerning your spouse or one of your children who is a citizen of the United States and who you believe would suffer exceptional hardship if you resided outside the United States for two years following your departure from this country.

If the U.S. citizenship of spouse or child was acquired through naturalization, give the following:

Name of U.S. citizen spouse or child:

U.S. citizenship of spouse or child was acquired through (*check one*)

- Birth in the United States Naturalization Parent(s)

Number of Naturalization Certificate

Date of Naturalization

Place of Naturalization

If the U.S. citizenship of spouse or child was acquired through parent(s), has the spouse or child obtained a Certificate of Citizenship? _____

If so, give the number of the certificate _____ If not, submit evidence in accordance with **Instruction 8, Supporting Documents**.

16. If you checked "A" under **Number 5** on **Page 1** of this form and you do not have a spouse or child who is a citizen of the United States, provide the following information concerning your spouse or one of your children who is a lawful permanent resident of the United States and who you believe would suffer exceptional hardship if you resided outside the United States for two years following your departure from this country.

Name of lawful resident alien spouse or child:

Alien Registration Number (A#)

Date, place and means of admission for lawful permanent residence:

17. APPLICANT'S CERTIFICATION: I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on _____
(Date) (Place) (Signature of applicant)

SIGNATURE OF PERSON PREPARING FORM, IF OTHER THAN APPLICANT: I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge:

(Signature) (Date) (Occupation)

(Address of person preparing form, if other than applicant) (Telephone Number) (E-Mail Address, if any)