

Foreign Born Student Victims of Sexual Assault, Dating Violence, Stalking, and Sexual Harassment: Special Needs of “J” Visa Holders¹

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J-1 Visa Description and Eligibility

J visas provide lawful temporary immigration status for individuals approved to participate in exchange visitor programs in the United States. Exchange visitor categories include:

- Short-term scholars, students at a college/ university, interns, specialists, teachers/ professors, and research scholars.

Requirements

Duration: The student is permitted 24 months in the U.S. to complete his or her post-secondary degree.

- **Study:** J-1 visa holder students are required to pursue a full course load.²
- **Foreign Residency Requirement:** A current or past J-1 visa holder is required to return to their home country to fulfill a two-year home country physical presence requirement before they are allowed to return to the United States. This is known as the foreign residence requirement. This two 2-year foreign residence requirement is imposed on J-1 visa holders for one or more of the following reasons³:
 - *Government funded Exchange Program:* The student participated in an exchange program that was funded in whole or in part by a U.S. government agency, his or her home country’s government, or an international organization that received funding from the U.S. government or the home country’s government.
 - *Specialized Knowledge or Skill:* The student participated in an exchange program involving an area of study or field of specialized knowledge that has been designated as necessary for further development of his or her home country and appears on the Exchange Visitor Skills List for the home country.
 - *Graduate Medical Education/ Training:* The student participated in an exchange program to receive graduate medical education or training.

Exceptions to the Requirements

Crime Victim Needs: Common forms of interim measures student victims of sexual assault, dating violence and/or stalking will need is a reduced course load or leave of absence from school so that they can get the time, services and support they need to heal following abuse.

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² Full-time for both F and J visas means 12 credits or above for an undergraduate student in either a term or semester school, 9 credits for a graduate student in a semester or term school, and 12 credits for a Juris Doctor student.

³ <http://j1visa.state.gov/participants/current/rules-and-infractions/>

Reductions in Course Load or Interruption of Study: If the J-1 visa holder student is compelled to reduce or interrupt a full course load of study, they may do so if there was prior consultation with (and approval of) the request by the student's academic advisor and by organization serving as the student's Designated Sponsor for the J-1 student visa holder. The Designated Sponsor files a request seeking USCIS approval for the change. The following qualify as legitimate reasons for a reduced course load or interruption of study:⁴

- **Bona Fide Academic Reason:** The sponsor of the J-1 visa holder provides USCIS with a written statement from the academic dean or an advisor recommending that the student reduce his or her course load.
- **A Medical Condition:** The sponsor obtains a written statement of a qualified medical condition as determined by a medical professional⁵:
 - Class A: A communicable disease
 - Class B: Physical or mental abnormality, disease, or disability serious in a degree or permanent in nature amounting to a substantial departure from normal well-being
 - Victims of sexual assault, dating violence or stalking will need to obtain medical documentation that their need for leave or reduced course load meets these criteria

Interrelationship Between Interim Measures and a Student's J-1 Visa

- **Impact of Reduced Course Load and Absence from School:** Interim measures that allow victims to take a leave of absence from school or reduce their course load cannot interfere with the ability to complete their degree within 24 months of receiving their J-1 visa.
- **Helpful Interim Measures:**
 - The Dean or an Advisor from the university provides a statement recommending that the student take a reduced case load for academic reasons.
 - The university collaborate with the J-1 visa holder student's advisor assisting them in preparing and securing approval from USCIS for academic leave or reduced course load.
 - Healthcare providers at the university attest that the student victim has significant physical and/or psychological needs as a result of the abuse suffered that merit a reduced course load or leave of absence from school.
- **Screen the Student for U visa, T visa or VAWA eligibility**
 - Screen the student for VAWA/T/U visa eligibility based on crime victimization occurring as a student and occurring prior to their becoming a student.⁶
 - Screen students who are under age 21 about crime victimization that their parent may have suffered that would make their parent eligible to file a U visa of VAWA case that includes the student in their parent's application.
 - Provide U visa certification by campus police for abuse suffered on campus.
 - Assist the student in making police reports and obtaining U visa certification from local law enforcement.
 - Collaborate with local law enforcement on criminal investigations and prosecutions involving the student victim.

⁴ <http://j1visa.state.gov/participants/current/rules-and-infractions/>

⁵ A medical professional refers to a licensed medical doctor, doctor of osteopathy, or a licensed clinical psychologist.

⁶ Under 25-year-old immigrant students who were abused by a U.S. citizen or lawful permanent resident parent or step-parent may qualify to file VAWA self-petitions which bring access to FAFSA student grants and loans.

- Know and develop relationships with community based and victim services organizations with expertise serving immigrant crime victims including help filing VAWA/U/T immigration cases that serve the community⁷ in which the University/College is located.

⁷ To locate programs with this expertise in your state go to: <http://www.niwap.org/directory/>