



## POLICY ON EMPLOYMENT OF FELLOWS

*Dated:* March 30, 2015

*Supersedes:* HR.119 *Employment of Fellows* dated June 25, 2012

### I. PURPOSE

To establish requirements for the employment of Research and Clinical Fellows.

### II. POLICY

It is the policy of New York Medical College to encourage the hiring of qualified individuals as fellows to collaborate on existing research projects at the College and to ensure that the fellows are treated in a fair and equitable way. The College at all times will comply with prevailing (Department of State (DOS) and Department of Homeland Security (DHS) regulations concerning J-1 Scholars and for H-1B and O-1 employees will comply with prevailing wage regulations approved by the U.S. Department of Labor for Labor Condition Applications and the United States Citizenship and Naturalization Service (USCIS). United States fellows are treated in the same fair and equitable way as non-resident aliens.

### III. SCOPE

This policy applies to all non-clinical J-1 Scholars who are conducting research at the College or at one of its affiliates and to research and clinical fellows at the College in H1-B, O-1 status or who are United States citizens.

### IV. DEFINITION

*J-1 Scholar* - a citizen of another country who has at minimum, a Master's degree and several years of relevant work experience or a doctoral degree (e.g. Ph.D., M.D., D.V.M., or equivalent). J-1 Scholars are invited to the College in order to contribute to ongoing research programs, which benefit the Principal Investigators (PI) and the College and to gain experience and knowledge, which benefits their own career development as research scientists. J-1 Scholars may be hired for appointments up to five years or less. They are temporary College employees and cannot be hired for tenure-track positions. J-1 Scholars may be sponsored by the College or by another organization, the U.S. government, a foreign government or a foreign institution or organization. All visitors to this country in J-1 status, including J-1 Scholars, are subject to regulations issued by the United States Department of State (DOS) and the United States Department of Homeland Security (DHS). J-1 Scholars can be hired by the College for research positions only since they may not have direct patient contact.

*J-2 dependents* - the spouse or minor unmarried child of an alien classified as J-1. These individuals are employable with authorization from U.S. Citizenship and Immigration Service.

*H-1B Fellow* - a temporary worker of distinguished merit and professional ability. H-1 fellows can be petitioned for a three-year period, which can be extended for an additional three years, to a maximum of six years. They are required to be hired into professional positions requiring a minimum of a Bachelor's degree. Employees in H-1 status are subject to regulations issued by the Department of Homeland Security, United States Citizenship & Immigration Service.

*H-4 status* - the spouse or unmarried child of alien classified as H-1B, according to U.S. Citizenship and Immigration Services regulations they are not employable.

*O-1 Fellow* - a Fellow who is recognized as an outstanding researcher or clinician.

*Post-doc Fellow* - Resident Alien or United States citizen is in fellow status upon receiving a doctorate degree and seeking advanced experience or training.

*Fellow* - may include any of the following temporary employment categories at the college: Postdoctoral Fellow, Research Fellow, Visiting Research Fellow and on a more senior level: Visiting Scientist, Visiting Research Assistant/ Associate, or Visiting Scholar. A pre-doctoral fellow is a person with a Master's degree and enrolled in a doctoral program.

## V. PROCEDURE

### A. Hiring Procedures - J-1 Fellows

#### 1. Required Documentation - J-1 Fellows

When a department wishes to hire a foreign national for a research position, the Chairman of the Hiring Department or his/her designated representative will complete and sign a J-1 Scholar checklist, attach the following documentation to it and forward them to the International Student and Scholar Advisor for review:

- a. Completed checklist;
- b. Applicant's Curriculum Vitae, including educational background, employment background, and list of publications;
- c. A brief description of the research project on which the J-1 Scholar will be hired to work and his or her expected involvement in it;
- d. Photocopies of the applicant's diploma or degree certificate with translation; and
- e. Photocopy of the expiration-date page from the applicant's passport

2. Process for J-1 Fellow

- a. The Hiring Department will complete the checklist and forward it, along with all the required documents referred to in paragraph A, to the International Student and Scholar Advisor. The supporting documents for a new J-1 Scholar should be forwarded to the International Student and Scholar Advisor at least two months before the J-1 Scholar's planned arrival date.
- b. Upon receipt of the materials, the International Student and Scholar Advisor will prepare a DS-2019 form, welcome letter, information on how to apply for a U.S. visa, and pre-arrival information guide. These materials will be forwarded to the prospective J-1 Scholar by the International Student and Scholar Advisor and the cost of the mailing will be charged to the appropriate department. If the J-1 Scholar is already employed by another laboratory in the United States, the International Student and Scholar Advisor will contact the other institution to arrange a transfer of the J-1 Scholar's visa status to the College, and will notify DOS of the transfer.
- c. Each new J-1 Scholar will receive a pre-arrival guide, which will include basic arrival and settling-in information about travel from the airport to the campus, opening a bank account, applying for a social security number, finding housing, using local transportation, etc. In many cases the Principle Investigator (PI) or Hiring Department will provide such assistance to new J-1 Scholars, but it is up to the individual PI or departmental discretion and ultimately remains the responsibility of the new J-1 Scholars.

B. Hiring Procedures for H1-B or O-1 Fellow

1. The Hiring Department, through the Principle Investigator, notifies Human Resources of its interest in petitioning a fellow or professional on an H1-B or O-1 petition, completes the Sponsor Acknowledgement Form (approved by the PI and Department Chair) and attaches a copy of the Employment Offer Letter to be sent to Human Resources in order to begin the process. The offer letter must include the job title, prevailing wage for the position and the period of time for the petition (usually a period of three years).
2. The Human Resources Department works directly with the beneficiary of the H-1B petition or the lawyer to complete all necessary paperwork.
3. The Hiring Department puts through an Accounts Payable Check Request for \$500 payable to the U.S. Department of Homeland Security for \$500 for Fraud Prevention and Detection Fee for all new H-1B or O-1

petitions and for all transfers. The check is returned to Human Resources for inclusion with the application. All other application fees are assumed by the beneficiary, unless otherwise determined by the department.

4. Upon completion of the certified Labor Condition Application and I-129 Application forms, the Certifying College Official (Director of Human Resources), signs the forms and attaches required documentation to forward with the checks to the USCIS, Department of Homeland Security for processing. Normal processing time is 3-4 months, premium processing, which requires an additional \$1,000 fee, takes 15 days after receipt by the Department of Homeland Security.
5. A person who already holds an H-1B visa from another institution and is transferring to New York Medical College, follows all the same procedures as above, but can start working at the College as soon as Human Resources received receipt from USCIS that the H-1B application has been received. It would still take 2-3 months before the Approval Notice of Action is received by the College.

C. New Hire Procedure for Human Resources/Payroll

1. All foreign fellows must apply for a Social Security Number within the period of time as specified by USCIS (United States Citizenship and Immigration Service) upon their arrival in the United States, usually after two weeks of arrival.

If there is a delay in the foreign fellow receiving a Social Security Number, Human Resources will continue to process the new-hire paperwork with a Social Security Administration-approved generic number. The fellow's paycheck will not be delayed if all other requirements are fulfilled. The fellow will have to provide Human Resources a copy of the receipt from Social Security stating that they have applied for their number.

Upon receipt of the Social Security Number, the fellow must present it to Human Resources to photocopy for their file and in order to correct the number in the HR/Payroll database system. Beginning from the date of hire, the department must record time for each bi-weekly pay period on the timesheet that the employee works.

2. The Hiring Department completes a Personnel Action Form (PAF) for each new hire fellow in order to initiate his/her employment with the College. Once the form is received, Human Resources will complete the necessary paperwork for I-9 Employment Eligibility Verification, Safety Training, ID and Parking, Employment Physical and Benefits Orientation. Medical Insurance is Department of State (DOS) mandated and may be offered through NYMC or another source. J-1 and H-1B fellows must also have medical evacuation and repatriation insurance,

which is provided through the International Foreign Student and Scholar Advisor office.

D. Stipend Guidelines for J-1 Scholars and Minimum Levels of Support for J-2 Dependents

1. Currently, the minimum annual compensation for all current and newly hired J-1 Scholars is no less than 85% of the current National Institute of Health (NIH) NRSA minimum prevailing rate (2014 is \$42,000) which would be \$35,700. This is based on the 2014 NIH Stipend Guidelines. This minimum amount can include earnings from external sources combined with earnings from NYMC. It is the practice of the College to use the prior year NIH guidelines for minimum rates for compensation levels for fellows whenever possible.

Research fellows without a doctoral degree are paid a salary comparable to the NIH NRSA pre-doctoral stipend levels (\$22,476.00 for 2014).

Each prospective fellow will be evaluated according to his/her educational qualifications and professional experience. The minimum stipend level applies whether the stipends are to be paid by the Hiring Department or from an outside source and regardless of funding source. In cases where prospective J-1 Scholars have received earnings from their home governments or foreign sources that are below the minimum, the Hiring Department shall supplement the outside earnings to reach the minimum stipend level.

2. Under DOS and DHS regulations, a spouse and minor unmarried children (less than 21 years old) may accompany or follow the J-1 Scholar to the United States. Before issuing DS-2019 forms to enable the J-1 Scholar's eligible dependents to apply for visas, the International Student and Scholar Advisor must receive evidence that the J-1 Scholar possesses adequate financial resources of at least \$4,000 for the spouse and \$3,000 for each dependent child over the minimum allowable stipend level to support his/her family. Evidence of sufficient funds to support J-2 dependents shall be proven either through a letter from the bank where the J-1 Scholar has funds on deposit, indicating the current balance in the J-1 Scholar's account, or written evidence that a U.S. citizen or legal permanent resident is willing to sponsor the J-2 dependents during their stay. Further information on financial sponsorship for J-2 dependents may be obtained from the International Student and Scholar Advisor.

J-2 spouses of J-1 Scholars may apply to INS for employment authorization, but any salary earned by the J-2 spouse is not to be used to support the J-1 Scholar, who is expected to have sufficient funds to support himself/herself and his/her J-2 dependents.

E. Procedures to Extend the Stay of J-1 Scholars Already at the College

1. J-1 Scholar Extension

To extend the stay of a J-1 Scholar beyond the initial period (usually one year), the Chairman of the department employing the J-1 Scholar, or his/her designated representative, will forward a signed Checklist to the International Student and Scholar Advisor at least two (2) months in advance of the J-1 Scholar's current end date that includes the following information: (1) the beginning and end dates of the requested extension; (2) the amount of salary to be paid during the period; (3) the funding source; and (4) the following information on the J-1 Scholar's dependents who will continue to stay in the United States during the period of the extension; name, place of birth, date of birth, relationship to J-1 Scholar, and evidence of financial support of at least \$4,000 for the spouse and \$3,000 for each dependent child.

2. H-1B Fellow Extension

To extend the stay of an H-1B fellow, the Hiring Department and the fellow must follow the same application procedure as that of a new H-1B petitioner. The only exception is that the Hiring Department does not have to resubmit the one-time fraud prevention fee of \$500.

F. Termination

1. Voluntary

- a. Termination at the end of a J-1 Scholar period of research and authorized stay. The Hiring Department should ask the J-1 Scholar to make an appointment with the International Student and Scholar Advisor one month before his/her departure date for an exit interview.

If the terminating J-1 Scholar has been paid through the College's payroll, the Hiring Department must send a termination PAF to the Human Resources Department, including information about the individual's department date, and attach the Termination Checklist, ID card, and Employee Handbook and notify Security and Information Services about termination of ID and Network access.

- b. Termination of all Fellows is processed through a termination PAF sent to Human Resources and notification of termination of ID and Network access through Security and Information Services.

2. Termination for Cause

- a. In the event that a Hiring Department determines that the employment of a J-1 Scholar or H-1B Fellow warrants termination for unsatisfactory performance or for a violation of the policies and procedures of the College, the Chairman of such Hiring Department shall, before communicating with or implementing such termination, notify the Human Resources Department, which communicate with the Dean of the respective school (for research fellows, the International Student and Scholar Advisor. Such notice will be provided in writing, and shall contain the factual basis for the contemplated action and all relevant documentation to establish that the fellow involved has received prior notice of any unsatisfactory performance or misconduct and, contemporaneously with such notice, was afforded a reasonable opportunity to improve performance, or to correct behavior. Adherence to the College's Disciplinary Action Procedure, as outlined in Policy HR 213, will also be taken into account.
- b. The requirements of this section are applicable whether or not the J-1 Scholar is on the College's payroll.
- c. If it is decided that the termination is warranted or necessary, a termination letter is given to the employee by the PI of Department Chair, and a copy of the letter are attached to the termination PAF, along with the Termination Checklist. If a J-1 Scholar is terminated, the Department of State must be notified by the International Student and Scholar Advisor. If an H-1B Fellow is terminated, the Department of Homeland Security must be notified by the Human Resource Department.
- d. The International School and Scholar Advisor can then advise the J-1 Scholar about DOS and DHS regulations regarding departure or transfer to another institution. The Human Resources Department will advise the H-1B Fellow about the DHS regulations regarding departure of transfer to another institution. Government regulations now enforced make it especially important that J-1 Scholars and H-1B Fellows be aware of serious problems that could result from delays in leaving the country or transferring to another institution.

#### G. Fellow Grievances

If a Scholar or Fellow has a grievance against the Hiring Department or against individuals or procedures at the College, he/she should contact the Dean of the respective school or the Assoc. VP in Human Resources to discuss the problem and seek resolution.

#### H. Medical Insurance Requirement for J-1 Scholars

1. All J-1 Scholars, H-1B Fellows and all Fellows are required by DOS, to have at least minimum medical insurance coverage consisting of:
  - a. Medical benefits of no less than \$50,000 per accident or illness
  - b. A maximum \$500 deductible per accident or illness
  - c. Medical evacuation benefits of \$10,000
  - d. Repatriation of remains benefits in the amount of \$7,500
  
2. J-1 Scholars and H-1B Fellows and All Fellows petitioned by New York Medical College and Who Receive a Salary from NYMC Payroll
  - a. J-1 Scholars and all fellows are required by the College to enroll in medical insurance for themselves and their eligible dependents (which may be an additional cost to the J-1 scholar) through the College or to provide proof of adequate medical insurance coverage at or about the DOS mandates. J-1 Scholars and fellows are eligible to participate in the College's employee health benefits plan but not the student health benefits plan. If a new J-1 Scholar or H-1B fellow does not choose to participate in the College's employee health benefits plan, he/she must provide proof of adequate medical insurance coverage to the International Student and Scholar Advisor upon arrival on campus. In addition, all J-1 and H-1B fellows must have medical evacuation and repatriation of remains insurance. This coverage will be provided by the College for each J-1 Scholar and his/her dependents in J-2 status and H-1B and H-4 through the office of the International Student and Scholar Advisor.
  - b. To ensure appropriate and timely insurance coverage, the International Student and Scholar Advisor and the Human Resources Department need to be informed immediately of the arrival and departure dates of all new and continuing J-1 Scholars, whether or not they will be put on the College's payroll. When a J-1 Scholar's stay at the College is extended, the International Student and Scholar Advisor will forward a copy of his/her renewal DS-2019 to the Human Resources Department. When an H-1B is extended, the Human Resources Department inputs the extension date and sends the approval notice to the Department Administrator for their records and to make any required changes through the processing of the PAF.
  
3. Medical/Dental Insurance for J-1 Scholars only Who Are Petitioned by New York Medical College and Who Do Not Receive a Salary From Any Source of Funding Through New York Medical College
  - a. J-1 Scholars who are not paid via NYMC payroll are entitled to medical and dental insurance for themselves from New York Medical College and must obtain insurance for their J-2



dependents. The dependent coverage can be received through NYMC, and in most cases the total cost is paid by the department in conjunction with the J Scholar benefit. In some cases, the dependent medical and dental insurance cost may be required to be paid directly by the J-1 Scholar. If the department pays the total cost of the benefit, the cost of these fringe benefits will be charged to the grant designated by the department, via an accounting entry made by the Restricted Funds Department and if it is not, then an arrangement would be made for the J-1 Scholar to pay for the benefits directly through an invoice prepared by General Accounting.

- b. The process is that the home department initiates a Personnel Action Form (PAF) that indicates a zero salary for the scholar and indicates on the PAF any other special arrangement for the J-1 Scholar, and also lists the number of the grant account that is to be charged for the medical and dental benefits. Upon receipt of the PAF, Human Resources will schedule a benefits orientation for the Scholar to review the medical and dental plan options. Upon enrollment in the benefit plans, Human Resources will calculate the cost of the benefits elected and include the total cost on the PAF form. A copy of the PAF will be submitted to the Restricted Funds Department, who is responsible for charging the grant for the appropriate fringe cost or to General Accounting if the benefits are to be paid directly by the department or by the scholar through an invoice and cash pay process.
- c. Human Resources will retain the original PAF and enrollment forms in a separate file, until the scholar leaves the College. Upon termination, the Department Administrator will prepare a termination PAF and send it to Human Resources in order to terminate the benefits. The Human Resources will forward a copy to Restricted Funds or General Accounting for their action. After Human Resources submits the termination papers to the insurance carrier, the person will receive notification of eligibility of continuation of health benefits through COBRA.

#### I. Holidays, Vacation, and Personal Time

1. All fellows, including J-1 Scholars and H-1 Fellows and Resident Alien and United States Citizen Fellows are entitled to all Holidays on which the Valhalla campus of the College is closed in accordance with the College's Policy on Holidays and Early Closings for Religious Observances which can be found on the College's website at [http://www.nymc.edu/universitypolicies/Holidays\\_and\\_Early\\_Closing\\_for\\_Religious\\_Observations.pdf](http://www.nymc.edu/universitypolicies/Holidays_and_Early_Closing_for_Religious_Observations.pdf)
2. In addition to holidays, Fellows (J-1 Scholars, H-1B visa recipients,

Resident Aliens, US Citizens, etc.) who are paid through the College's payroll is entitled to 12 days of paid vacation and 2 personal days per year. Vacation and personal days are accrued annually from the date of hire, and may be used after three months or more of employment. Fellows cannot go into the negative on vacation. A maximum of one vacation and personal day can be carried forward on the anniversary date. Vacation and personal days must be taken prior to termination and will not be paid out upon termination.

J. Health Services and Physical Examinations

1. Scholars or Fellows who are on the College payroll must receive a physical examination during their orientation period. J-1 Scholars who are not on College payroll must have physical exams at their own expense either through the College or on their own and submit medical documentation to Health Services.
2. Fellows are eligible to utilize the College's Health Services benefits after their physical examination charts have been set up in Health Services
3. Any injury that is incurred at work must be reported to Health Services in order to complete an Incident Report. In the event of an emergency or in the event of an accident when Health Services is not open, contact Security and they will contact 911 for emergency assistance to be treated at the Hospital.

K. Housing

1. Every Fellow is responsible for obtaining and paying for his/her own housing. There are no on-campus housing facilities for Fellows; however, Hiring Departments are encouraged to contact the Housing Office for assistance in locating housing.
2. No individual, faculty member, or department may, under the name of the College or through his or her role at the College, lease, rent, or otherwise directly pay for any housing for Fellows.

L. Course Auditing

Fellows, as temporary employees, are not eligible for tuition remission. They may sit in (unofficially audit), without cost of any course offered through the Graduate School of Basic Medical Science's with permission of the instructor and the principal investigator. No grades or official records of participation will be issued. Under special circumstances, with justification from the sponsor or principal investigator and permission of the Dean of the appropriate school, a Fellow may be allowed to register for one course per semester in either graduate school as a non-matriculate and will have to pay the full tuition for the course directly or by charging the costs to an appropriate grant or account.

M. Cultural Enrichment Activities: J-1 Scholars

The DOS has mandated that Exchange Visitors on J-1 visas be offered cultural enrichment activities during their stay in this country. As defined by DOS, such cross-cultural activities are to be determined by each institution to fit the needs and interests of the exchange visitors. To comply with this regulation, the responsibility to ensure that all J-1 Scholars at the College will be offered cultural enrichment activities will be shared by the Hiring Departments and the International Student and Scholar Advisor. It is expected that each department will encourage J-1 Scholar attendance at appropriate academic conferences in the J-1 Scholar's field of research, and provide reports each year to the International Student and Scholar Advisor of such activities (these reports are due by July 1 of each year – see Section XVIII). The International Student and Scholar Advisor will periodically offer field trips to local sites of interest to J-1 Scholars, and other programs as requested.

N. Other J-1 Scholar and Fellow Privileges

In addition to the privileges outlined above J-1 Scholars also have access to the following College Services, and are expected to comply at all times with all College policies

O. Annual Report to DOS: J-1 Scholars

1. The International Student and Scholar Advisor will prepare an annual report to DOS before July 31 of each year covering the previous July 1 through June 30. The report will include, among other things, the number of J-1 Scholars on campus during the year, arrival and departure information, and a description of cultural enrichment activities.
2. To assist in the record-keeping required for the report, each Hiring Department will inform the International Student and Scholar Advisor when a J-1 Scholar arrives, when he or she leaves the College, and provide a report by July 1 of each year of J Scholar participation at academic conferences.

**VI. EFFECTIVE DATE**

This policy is effective as of the date signed below.

**VII. POLICY RESPONSIBILITIES**

A. Hiring Department

1. The Principal Investigator in the Hiring Department works with the International Student and Scholar Office to sponsor a Fellow on a J-1 Visa

and with the Human Resources Department to petition for a fellow on an H-1B visa.

2. For a J-1, once the DS-2019 is completed for J-1 fellows, then the department can submit the Personnel Action Form (PAF) to Human Resources for each new hire fellow in order to initiate the employment process. Once the PAF form is received in Human Resources, the fellow will be set up for I-9 Verification, ID and Parking, Safety Training, an Employment Physical and Benefits Orientation (Medical Insurance is DOS mandated and can be offered through NYMC or another source. J-1 and H-1B fellows must also have medical evacuation and repatriation of remains insurance upon arrival, which is provided through the International Student and Scholar Advisor.

B. Human Resources

Processes the H-1B Application for the Hiring Department and Beneficiary and process the Personnel Action Form for approvals, verifies the Employment eligibility and identity of the employee as required by law (I-9 form), sets up health exam, benefits orientation and safety training.


C. International Student/Scholar Offices

Processes DS-2019 for J-1 Fellows, orientates them to the Country and provides medical evacuation and repatriation Insurance for J-1 and H-1B Fellows and assist J-1 Fellows in cultural enrichment programs.

## VIII. POLICY MANAGEMENT

Responsible Officer: Vice President of Operations  
Responsible Executive: Director of Human Resources  
Responsible Offices: Human Resources Department

**APPROVED:**



Edward C. Halperin, M.D., M.A.  
Chancellor for Health Affairs and  
Chief Executive Officer



Date