

## United States Senate

February 14, 2022

The Honorable Antony J. Blinken  
Secretary of State  
U.S. Department of State  
2201 C Street N.W.  
Washington, D.C. 20520

The Honorable Ur M. Jaddou  
Director  
U.S. Citizenship and Immigration Services  
20 Massachusetts Ave N.W.  
Washington, D.C. 20529

Dear Secretary Blinken and Director Jaddou,

I am writing to request that the Department of State (DoS) and U.S. Citizenship and Immigration Services (USCIS) waive the J-1 two-year foreign residence requirement for Nevada's cultural exchange educators from the Philippines. In June of this year, over 60 Filipino special education teachers will have to leave Nevada as they complete their visa program in the United States, which will significantly strain Clark County School District (CCSD), the largest school district in the state. As CCSD faces critical teacher shortages, waiving the requirement and allowing J-1 visa educators to continue to fill these teaching positions will keep schools open and enhance student learning during the ongoing public health crisis.<sup>1</sup>

Across the country, the COVID-19 pandemic has exacerbated teacher shortages in crucial areas such as special education, which "directly impedes student access to educational opportunity," according to the U.S. Department of Education.<sup>2</sup> This teacher shortage is particularly acute in Southern Nevada, as CCSD has increasingly relied on international teachers to fill these vacancies over the last few years. Nevada welcomed more than 40 special education teachers in 2021,<sup>3</sup> 57 teachers in 2019, 105 teachers in 2018, and 84 teachers in 2017 — all from the Philippines.<sup>4</sup> These educators have not only filled staffing shortages during a time of exceptional need, but also have further enriched Nevada's communities with their knowledge and culture.

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<sup>1</sup> "Staffing Shortages Compound Struggles in Vegas Area Schools," Associated Press, 20 Dec. 2021.

<https://www.usnews.com/news/best-states/nevada/articles/2021-12-20/staffing-shortages-compound-struggles-in-vegas-area-schools>.

<sup>2</sup> Secretary Cardona's Dear Colleague Letter Addressing Teacher and Staff Shortages, 16 Dec. 2021, [https://oese.ed.gov/files/2021/12/21-0414.DCL\\_Labor-Shortages.pdf](https://oese.ed.gov/files/2021/12/21-0414.DCL_Labor-Shortages.pdf).

<sup>3</sup> "Newly Hired Ph Teachers in Las Vegas Share Excitement about Coming to U.S." ABS-CBN News, 24 Aug. 2021, <https://news.abs-cbn.com/overseas/08/23/21/newly-hired-ph-teachers-in-las-vegas-share-excitement-about-coming-to-us>.

<sup>4</sup> "Nevada Hires More Filipino Special Education Teachers." ABS-CBN News, 17 Aug. 2019, <https://news.abs-cbn.com/overseas/08/17/19/nevada-hires-more-filipino-special-education-teachers>.

As you know, the Exchange Visitor (J) non-immigrant visa allows educators from other countries to work in the U.S. for three years, with an extension permitted for one or two additional years based on school need. While teachers are able to re-apply for the visa, they are required to reside outside of the U.S. for two years following their initial program's completion.<sup>5</sup> Many of Nevada's Filipino teachers are approaching the end of their Exchange Visitor Program and, as a result, now face unprecedented hardships in returning to their home countries. USCIS itself has recognized that there are immigration-related challenges as a direct result of the pandemic<sup>6</sup> and in 2020, granted waivers for certain J-1 visa holders, specifically foreign medical graduates.<sup>7</sup>

Because of this need, I urge DoS and USCIS to swiftly waive the two-year foreign residence requirement for Nevada's Filipino J-1 exchange visitor teachers employed with CCSD as soon as possible. These educators have contributed immensely to our students during a public health emergency, and we should be doing everything we can to continue to support our nation's schools.

I thank you for your consideration of this request, and look forward to your prompt response.

Sincerely,



Catherine Cortez Masto  
United States Senator

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<sup>5</sup> "Teacher Program." U.S. Department of State, <https://j1visa.state.gov/programs/teacher>.

<sup>6</sup> "Covid-19 Delays in Extension/CHANGE OF STATUS FILINGS." USCIS, 13 Apr. 2020, <https://www.uscis.gov/news/alerts/covid-19-delays-in-extensionchange-of-status-filings>.

<sup>7</sup> Policy Memorandum - USCIS. [https://www.uscis.gov/sites/default/files/document/memos/PM-602-0178 - COVID19MedicalGraduatesMemo\\_Final\\_CLEAN.pdf](https://www.uscis.gov/sites/default/files/document/memos/PM-602-0178_-_COVID19MedicalGraduatesMemo_Final_CLEAN.pdf).



U.S. Citizenship  
and Immigration  
Services

March 7, 2021

The Honorable Catherine Cortez Masto  
United States Senate  
Washington, DC 20510

Dear Senator Cortez Masto:

Thank you for your February 14, 2022 letter regarding waivers of the two-year foreign residence requirement for exchange visitors with J-1 nonimmigrant status working as cultural exchange educators in Nevada. While not all J-1 nonimmigrants are subject to the two-year foreign residence requirement of Section 212(e) of the Immigrant and Nationality Act (INA), our response provides information on the waiver process for those who are subject to this provision.

Exchange visitors may seek a waiver of the two-year foreign residence requirement by filing a Form I-612, Application for Waiver of Foreign Residence Requirement (under Section 212(e) of the INA, as Amended). Exchange visitors may file the Form I-612 with U.S. Citizenship and Immigration Services (USCIS) if the waiver is based on a claim of exceptional hardship to their U.S. citizen or lawful permanent resident spouse or child, or the exchange visitor believes that returning to their country of nationality or last residence would subject them to persecution on account of race, religion, or political opinion. For more information on applying for a waiver of the foreign residence requirement with USCIS, exchange visitors should visit [www.uscis.gov/I-612](https://www.uscis.gov/I-612). Current USCIS processing times for Form I-612 are four to six months.

Alternately, exchange visitors may begin the waiver process with the Department of State (DOS) if they have received a request from an interested U.S. government agency; they received a written statement from their country of nationality or last foreign residence that it has no objection to the waiver; or a state's Department of Public Health, or its equivalent, sent a request to DOS for the exchange visitor to work in a medically underserved area (known as the Conrad State 30 Program). For more information on requesting a waiver of the foreign residence requirement with DOS, exchange visitors should visit: <https://travel.state.gov/content/travel/en/us-visas/study/exchange/waiver-of-the-exchange-visitor.html>.

A waiver of the two-year foreign residence requirement does not prohibit exchange teachers from extending their participation in the exchange program. Under DOS regulations, exchange teachers may be authorized to participate in the program for up to three years, with the potential for extensions of up to two additional years (for a maximum of five years). See 22 CFR 62.24(k). DOS has in the past permitted a one-time, one-year extension to allow a sixth and final year, as they did for the 2021/2022 academic year. DOS has stated that there will not be a

similar extension for the 2022/2023 academic year. Any teachers completing their program in the spring of 2022 who are in their fifth or sixth year are not eligible for additional extensions.

Under DOS regulations, exchange teachers must reside outside the United States for at least two years following the successful completion of their most recent exchange program before they are eligible to participate in an additional teacher exchange program. See 22 CFR 62.24(l). This requirement cannot be waived and is separate and distinct from the two-year foreign residence requirement of INA 212(e). USCIS defers entirely to DOS on the question of extensions of the exchange teachers' current J-1 nonimmigrant status.

While a waiver of the two-year foreign residence requirement has no bearing on a possible extension of the exchange teachers' participation in the exchange program, such a waiver would remove a barrier to other immigration benefits that might allow them to remain in the United States. Specifically, a waiver of the two-year foreign residence requirement is necessary in many cases before J-1 nonimmigrants subject to INA 212(e) can change to a different nonimmigrant classification. See INA 248(a)(3). Also, noncitizens subject to the two-year foreign residence requirement cannot adjust their status to lawful permanent residence until they either comply with the requirement or are granted a waiver. See INA 212(e).

Either change of nonimmigrant classification or adjustment of status to lawful permanent residence could provide a potential pathway for exchange teachers to remain in the United States and continue their employment with their school district(s). While there are many different nonimmigrant categories, USCIS notes that primary and secondary school teachers may be eligible in the categories of H-1B or Q (for certain immersion programs). USCIS has published policy guidance about change of nonimmigrant status and the eligibility requirements for various nonimmigrant classifications in Volume 2 of the USCIS Policy Manual, <https://www.uscis.gov/policy-manual/volume-2>.

Similarly, there are many different paths for a noncitizen to adjust their status in the United States. Any noncitizen who becomes a lawful permanent resident is eligible to work in the United States. General information about adjustment of status is available in Volume 7 of the USCIS Policy Manual, <https://www.uscis.gov/policy-manual/volume-7>. If their current employer(s) would like to petition for the exchange teachers, USCIS provides information about that process in Volume 6, Part E of the USCIS Policy Manual, <https://www.uscis.gov/policy-manual/volume-6-part-e>.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou  
Director