

APPROPRIATE VISA FOR VISITING THE MBL

What visa will I need to visit MBL?

A: If you are planning to participate in one of our educational programs or to perform research, you will likely need to obtain a J-1 exchange visitor visa. The B-1 business visa may also be an option. Both are described in more detail below.

For a basic introduction to the J-1 visa, please see this link:
http://travel.state.gov/visa/temp/types/types_1267.html .

For a basic introduction to the B-1 visa, please see:
http://www.travel.state.gov/visa/temp/types/types_1265.html.

For information on tax issues related to J-1 visas, see our website at:
http://hermes.mbl.edu/education/foreign_services/tax_withholding.html

J-1 visa vs. B-1 visa - which one is right for me?

A: Most of our visitors obtain a J-1 visa, which has a number of benefits. It allows for payments to you for any work done, possible work authorization for a spouse, generally less scrutiny at the border, health insurance, a longer visit, and a much wider range of permissible activities than a B-1. The J-1 visa is commonly used for exchange programs. Students engaging in a full-time course of study, research scholars or scientists conducting collaborative research, and professors visiting to teach or lecture typically apply for a J-1 visa.

In some limited cases, the B-1 visa may have some advantages:

1. It can be faster for visitors from Visa Waiver countries (see the list here: http://travel.state.gov/visa/temp/without/without_1990.html#overview) or those who already have B-1/B-2 visas in their passports.
2. It can be less expensive because the J-1 requires the payment of a SEVIS fee and the cost of medical, repatriation, and evacuation insurance.
3. It is not an exchange visa so there is never any restriction on coming back to the US. Certain J-1 exchange visas do have restrictions; for more information, see: http://travel.state.gov/visa/temp/types/types_1267.html#twoyear .

If I wish to avoid the drawbacks to the J-1, can I use the B-1 instead?

A: The J-1 is the safest option because it relies on a well-defined category. In fact, deciding whether a visitor should get a B-1 is considered one of the most complex determinations an immigration officer has to make! The decision on the B-1 may come down to the officer's judgment on the information and documents provided. Our attorney, Dan Berger, has been on several panels over the past year with Customs and Border Patrol officers discussing the B-1. At each panel, experienced CBP officers discussed case-by-case decisions concerning the “gray areas” of B-1 visas.

B-1 visas are generally appropriate for:

- Consulting
- Training
- Participating in scientific or educational conferences, or seminars
- Undertaking independent research that provides no benefit to MBL

Note, B-1 visa holders cannot enter the United States for the primary purpose of study. When it comes to MBL programs, this is one of the “gray areas” since the officer could consider even a 7-day special-topics course at MBL to be “study.” But, he or she might also consider the course a “scientific or educational conference” or “seminar” or “training” and find the B-1 visa is appropriate.

Can you tell me more about using the B-1 visa to participate in an MBL conference or seminar?

A: Department of State (DOS) may approve a B-1 visa if you are not in a week or more of full-time study that is required for academic credit or the completion of an academic program of study. One benefit of applying for a B-1 visa to attend conferences and seminars is that consular officers can expedite these applications.¹ You may also present your work or be invited as a guest speaker or lecturer at an educational conference as a B-1 visa holder.

Are MBL-sponsored programs “educational conventions or seminars”?

A: This is a matter of interpretation. DOS only offers some guidance on this issue:

“If posts find applicants will be engaged in something other than a week or more of full-time study, and that the course is neither offered for academic credit nor required for completion of an academic program of study, then the activity may be properly classifiable as B-1 as an educational convention or seminar.”²

DOS has also added:

“If the student plans to spend a week or more of full-time study (more than 18 hours per week) for academic credit or completion of an academic program of study in the United States, an F-1 or M-1 visa [or in the case of MBL, a J-1 visa] is appropriate.”³

Although many of our seminars are over one week and require more than 18 hours per week of participation, MBL does not offer academic credit or require our seminars for the completion of a course of study. However, an immigration officer may still interpret these courses as “full-time study” and not “educational conventions or seminars” due to their length and amount of classroom instruction and laboratory work time. If you choose to try the B-1 visa, be sure that it is clear the course does not come with academic credit and it does not satisfy graduation requirements for any other degree program.

1 9 FAM 41.31 N5

2 DOS document, “Student and Exchange Visitor Visa update – April 2010,” *published on AILA InfoNet at Doc. No. 10051363 (posted May 13, 2010).*

3 *Ibid.*

Can I receive training on a B-1 visa?

A: The State Department does include on their website “training” as a permitted purpose of travel on a B-1 visa:

“Participating in a training program that is not designed primarily to provide employment [and w]ill receive no payment or income from a U.S. based company/entity, other than an expense allowance or expense reimbursement related to traveler's stay.”⁴

Again, deciding whether a short course is training or study will be case by case. For example, if you enter the United States to attend an MBL conference or seminar that offers hands-on-training in aquatic animal care, this should be an appropriate use of the B-1 visa.

Consulates and ports-of-entry have been inconsistent in handling foreign nationals who present these visas. Furthermore, guidelines for consular officers in adjudicating these visas are currently under review (as of July 2013) and changes may occur.

Can I be paid by MBL while on a B-1 visa?

A. While you cannot accept payment for services on a B-1 visa, you can accept scholarships that cover your tuition for the training. You can also accept travel expenses, housing, meals, or reimbursements for them.

*Developed in conjunction with the immigration firm of Curran & Berger LLP.
Revised: August 27, 2013.*

