AILA PERM Online Course Outline

MODULE 1: IS PERM APPROPRIATE FOR YOUR CLIENT?

Faculty:
Ganesh Kalyanaraman (ML), Course Committee, Sacramento, CA
William A. Stock, AILA Past President, Philadelphia, PA
Kevin W. Miner, AILA Board of Governors/Business Immigration Response Team/DOL Liaison Committee/Author, Business Immigration: Law & Practice, 2nd Ed., Atlanta, GA

Module Outline:
- **Video:** Welcome to the PERM Online Course – Speaker: *Tiffany Martinez, AILA New Members Division Steering Committee Vice Chair/Course Committee Chair, San Francisco, CA
- **Reading:** How to Take the PERM Online Course
- **Video:** Overview and Ethical Considerations for Module 1: Is PERM Appropriate for Your Client?
- **Reading:** K. Aquino-Pham, *et al.*, “Immigration Policies from the Employer’s Perspective” *Immigration Practice Pointers* (AILA 2017–18 Ed.)
- **Reading:** E. Litwin and M. Seid, “Filing Labor Certification Applications Under the PERM Regulations” *Navigating the Fundamentals of Immigration Law* (AILA 2022–23 Ed.)
- **Video:** Review of Existing File on the Beneficiary
  - Nonimmigrant Limitations on Period of Admission: Will You Need to Expedite the Process or Change the Employees Status?
  - Aging Child
  - Foreign State Cross-Chargeability: Does a Spouse Have More Favorable Chargeability?
  - Payroll Source
  - Previous I-140
- **Reference Document:** Checklist for Review of Existing Nonimmigrant Visa (NIV) File
- **Video:** U.S. Permanent Residence Options
- **Video:** PERM Suitability
  - Ability-to-Pay
  - Timing
    - When Do You Need to File to Ensure H-1B extension?
    - Will You Need to Expedite the Recruitment?
- **Reference Document:** Checklist of PERM Suitability Factors
- **Exercise:** Write Memo Regarding Available Visa Options for Employee; Why and When to File PERM
- **Sample Document:** Introduction to Employer of What PERM Strategy to Use
- **Video:** Payment for the PERM
- **Reading:** “DOL FAQs on ‘Substitutions Plus’ Final Rule,” AILA Doc. No. 07071675

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MODULE 2: JOB DESCRIPTION AND REQUIREMENTS

Faculty:
Ian David Wagreich (ML), Course Committee/AILA Business Immigration Response Team/DOL Liaison Committee, Chicago, IL
Sonal J. Mehta Verma, Rockville, MD

Module Outline:

- **Video**: Overview and Ethical Considerations for Module 2: Job Description and Requirements
- **Video**: Basics of the Job Description and Requirements
  - Pre-Filing Challenges and Setting the Stage for Success
  - Choosing the Appropriate Position
  - Sources of Employer’s Job Description
  - Developing Appropriate Job Requirements
- **Video**: Preparing the Job Description
  - Actual Minimum Requirements
  - Alternate Requirements
  - Utilizing the OOH and O*Net
  - Minimum Educational Requirements and Issues
  - Translating Job Requirements into PERM Minimum Requirements
- **Reading**: A. Dgebuadze et al., "Square Pegs in Round Holes: Drafting Job Requirements for PERM" Immigration Practice Pointers (2019-20 Ed.)
- **Video**: Potential Audit Triggers
  - Random Audits
  - Targeted Audits
  - Business Necessity
  - Special Vocational Preparation (SVP) and Job Requirements Normal to the Occupation (H.12)
Module Outline:

- **Video:** Overview and Ethical Considerations for Module 3: Beneficiary’s Qualifications and PWD
  - Reading: “Practice Pointer: Understanding SVP in PERM” (April 24, 2020), AILA Doc. No. 20042062
  - Video: Introduction to the PWD
    - Standard Occupational Classification (SOC) Code: Job Title and Description
    - Leveling: Requirements
      - Education
      - Experience
      - Travel
      - Supervisory Requirements
    - Alternate Combination of Education and Experience
  - Video: Wage Issues
    - Anticipating Issues
    - Filing Multiple PWDs

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Module 4: Recruitment

Faculty:
Lauren Ross (ML), San Francisco, CA
Jennifer Minear, AILA First Vice President, Richmond, VA
Nadia A. Deans Kalata, Atlanta, GA

Module Outline:

- **Video**: Overview and Ethical Considerations for Module 4: Recruitment
- **Reference Document**: Recruitment Steps Flow Chart
- **Video**: Pre-Recruitment Steps
  - Role of Attorney in the PERM Recruitment Process
  - Gather Information About Prior Recruitment and Company— or Industry-Wide Layoffs
  - PERM Special Handling for University Professors
  - Batching Recruitment
  - Use of Third Party to Place Recruitment: Pros and Cons
- **Sample Document**: Notice of Filing Postings for Union and Non-Union Employees
- **Video**: Planning the Recruitment: Timing Is Key
  - Required Recruitment Steps
  - Job Order
  - Sunday Newspaper Advertisements
  - Notice of Filing Posting: Considerations for Employers with Unions
    - Refer to Sample Notices for Union and Non-Union Employers
  - Additional Recruitment Steps for Professional Positions
    - Practical Considerations for Choosing Secondary Recruitment Options—*i.e.*, Cost or Industry Standards
- **Reading**: “Practice Pointer: Use of Employee Referral Programs in PERM Recruitment,” AILA Doc. No. 13052847
- **Sample Document**: Sample Recruitment Plan and Email to Employer
- **Sample Document**: Email to Employer Re: Resume Review
- **Reference Document**: Recruitment Checklist
- **Video**: Developing a Recruitment Plan
  - Discussing Recruitment Options with the Employer
  - Drafting a Recruitment Plan for Employer Approval
  - Options for Placement of Recruitment: Third-Party Company, Attorney, or Employer
    - Refer to Sample Recruitment Plan and Email to Employer
    - Refer to Recruitment Checklist
  - When to Close Recruitment and Timing Considerations

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• **Video:** Screening Applicants
  - Resumé Review Guidelines
    - Refer to Sample Email to Employer Re: Resumé Review
  - Employer Contact with Candidates and Interview Scheduling
  - Interview Requirements
    - Refer to Sample Email to Employer Re: Resume Review
  - Interview Results and Preparation of Recruitment Report
    - Reasons for Candidate Disqualification
    - Preparing Table of Recruitment Results and Recruitment Report
    - What to Do If Qualified Candidate Is Found
• **Video:** Mock Candidate Interview with Employer and Candidate
• **Exercise:** Draft a Sample Job Announcement
  - Include All Required Elements
• **Hypotheticals**
• **Resource List**
  - A Curated List of Additional Publications, Recordings, and Resources

**Module 5: Filing**

Faculty:
Avalyn Castillo Langemeier (ML), Course Committee, Houston, TX
Sarah K. Peterson, AILA Board of Directors/DOL Liaison Committee Chair, Minneapolis, MN
Helene Dang, Houston, TX

Module Outline:
• **Document:** Important Update to PERM Filing
• **Video:** Department of Labor Open Forum recording from AILA Annual Conference 2023
• **Video:** Workshop: Deep Dive into PERM Issues from AILA Annual Conference 2023
• **Reading:** “Practice Alert: OFLC Provides Updates Concerning the New Form ETA-9089 and Its Implementation in FLAG,” AILA Doc. No. 23071205; July 12, 2023.
• **Reading:** “Practice Pointer: Tips on New ETA 9089 from 2023 FBA Immigration Law Conference,” AILA Doc. No. 23060601; June 6, 2023.

Optional Additional Course Materials
• **Video:** Overview and Ethical Considerations for Module 5: Filing
• **Video:** General Considerations for Filing
  - Deadlines for Filing ETA Form 9089
  - U.S. Department of Labor (DOL) Frequently Asked Questions (FAQs)
  - The Importance of Avoiding Inadvertent and Typographical Errors

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Module 6: Audit

Faculty:
Vincent Lau (ML), AILA DOL Liaison Committee Vice Chair/Course Committee, Cambridge, MA
Loan T. Huynh, AILA DOL Liaison Committee Vice Chair, Minneapolis, MN
Magaly Rojas Cheng, Cambridge, MA

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Module 6: Audit

- **Video**: Overview and Ethical Considerations for Module 6: Audit
- **Video**: Documenting Recruitment Efforts
  - Tips from Regulations
  - FAQs
  - The Board of Alien Labor Certification Appeals (BALCA)
- **Reference Document**: Audit File and Recruitment Effort Checklist
- **Video**: Recruitment Report: Tips and Best Practices
- **Sample Document**: Recruitment Report
- **Reference Document**: Evaluation
- **Reading**: “DOL Presentation from Webinar on PERM Audit Response Submission Practice Tips,” AILA Doc. No. 17071731
- **Reading**: “Practice Pointer: Why You Should Use the PERM Case Management System,” AILA Doc. No. 18110930
- **Sample Document**: Email Correspondence Alerting Client of Audit
- **Exercise**: Steps to Be Taken and Anticipated Timeline
- **Sample Document**: Cover Letter to DOL in Connection with Audit Response
- **Reading**: “Practice Pointer: Responding to PERM Audits Requesting Extensive Employer Financial Documentation” (Nov. 9, 2021), AILA Doc. No. 21110912
- **Video**: Documenting Business Necessity
- **Video**: Triggers for an Audit
- **Reading**: “DOL Practice Pointer: Are You Audit Ready?” AILA Doc. No. 14042961
- **Exercise**: Spotting Audit Triggers in Sample 9089 Forms
- **Video**: Responding to an Audit, with the Appeal in Mind
- **Hypotheticals**
- **Resources List**
  - A Curated List of Additional Publications, Recordings, and Resources
- **Reading**: “DOL Practice Pointer: Are You Audit Ready?” AILA Doc. No. 14042961

Module 7: Post-Decision Issues

Faculty:
Brenda Oliver (ML), Course Committee, Washington, DC
Yvonne Toy, San Francisco, CA
Jared C. Leung, AILA DOS Liaison Committee, Tempe, AZ

Module Outline:
- **Video**: Overview and Ethical Considerations for Module 7: Post-Decision Issues
  - Filing of I-140: Certified PERM Within 180 Days

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