

Regulation

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

Related Entries: Policy GD
Responsible Office: DIVISION OF HUMAN RESOURCES

EMPLOYMENT OF FOREIGN NATIONALS

A. PURPOSE

To establish procedures for addressing the employment of foreign nationals.

B. BACKGROUND

The Board of Education seeks to broaden the candidate pool in all areas, including targeted critical shortage areas and underrepresented populations. As a result of the need to expand efforts in recruitment, qualified foreign nationals may be selected for specific positions. Additionally, the employment of foreign nationals may provide our school system with a more well-rounded and improved understanding of different world perspectives through employees who share their culture.

C. DEFINITIONS

1. An Employee of Anne Arundel County Public Schools (AACPS) is an individual who performs services that are subject to the will and control of the organization in terms of what must be done and how it will be done. An employee is paid through the payroll system, with accompanying tax withholding as provided by law.
2. A Firm Employment Offer is a written communication in which a hiring authority makes an offer to employ a specific person in a specific position at a specified rate of pay to start within a certain time frame.
3. A Foreign National is an individual who is not a U.S. citizen, permanent resident, or resident alien of the United States.
4. An H-1B Visa (Specialty Occupation Workers) is a temporary, nonimmigrant visa issued to a foreign national who has specialized education credentials and who has been offered a position requiring the application of a theoretical and specialized body of knowledge acquired in his/her degree program. Generally, an H-1B visa is approved for an initial three-year period with a three-year extension available for a total of six years.
5. An I-9 Employment Eligibility Verification is a form that must be completed by each employee upon hire. Evidence of eligibility to work in the U.S. must be presented.
6. An I-129 is a Petition for Nonimmigrant Worker, filed with the United States Citizenship and Immigration Services (USCIS) to apply for an H visa designation.

7. A J-1 Visa (Exchange Visitor) is a temporary non-immigrant visa issued to a foreign national employed in an educational or exchange program approved by the U.S. Department of State (DOS). The validity period for J-1 visa holders varies depending on the purpose of the individual's stay.
8. A Labor Certification is an authorization by the U.S. Department of Labor to hire a foreign national.
9. A LCA is a Labor Condition Application is the initial step to obtain H visa status; an attestation to the U.S. DOL of the terms and conditions of employment.
10. A Nonimmigrant is a citizen of another country who has been admitted to the United States for a temporary period and for a specific purpose.
11. A Permanent Resident or Resident Alien is an individual who has been lawfully admitted to the United States to live and work, an immigrant, or holder of a "green card."
12. USCIS means the United States Citizenship and Immigration Services.
13. US DOL means the United States Department of Labor.
14. US DOS means the United States Department of State.
15. Beneficiary Employee is an employee that is the beneficiary of an employer-sponsored immigration application.

D. PROCEDURES

1. Anne Arundel County Public Schools may offer employment to individuals in temporary, non-immigrant status such as H-1B or J-1. While their immigration status is temporary, they may qualify for U.S. Permanent Resident status through employment.
2. To avoid any potential misunderstandings and to protect AACPS from any future claims which may be made by a prospective employee, at the time of hire of a foreign national, the Division of Human Resources will discuss with the employee conditions which must be satisfied before AACPS will entertain sponsorship for permanent residence. (See 5, below.)
3. Employees working on an H-1B visa status must remain in the specific job authorized. Transfers or a promotion to a different job may invalidate the H-1B status. If such a transfer/promotion is contemplated, an amendment to the H-1B petition may be required.
4. The H-1B petition is employer-specific and job-specific. The H-1B beneficiary can only be employed by the employer who sponsored the beneficiary of the H-1B petition; in addition, they can only be employed in the specific job for which the H-1B was approved. Transfers or a promotion to a different job may invalidate the H-1B status. If such a transfer/promotion is contemplated, the Division of Human Resources must be consulted before an amendment to the H-1B petition may be sought. No other employment is allowed, unless another prospective employer files an H-1B petition for concurrent employment.
5. Under certain conditions, the Anne Arundel County Public Schools may wish to retain on a permanent basis an employee currently working in a temporary, non-

immigrant work status. Permanent Residence sponsorship may be considered when all of the following conditions are true:

- a. Employee achieved tenure and/or satisfactorily completed his or her probationary period in a regular position, and the position is expected to continue over time; and
 - b. All performance evaluation ratings have been satisfactory or above; and
 - c. There are no disciplinary actions or pending disciplinary actions; and
 - d. The immediate supervisor has provided a written request and recommendation for such action, and
 - e. The employee agrees to remain employed by the Anne Arundel County Public Schools for at least two (2) years beyond the date when he/she secures permanent resident status; i.e., green card, and
 - f. A qualified immigration attorney submits to the Human Resources Director a statement indicating that he or she has conducted a detailed analysis of the employee's case and determined that there are no foreseeable bars to obtaining permanent residence within the available time. If the attorney has identified any circumstances that would preclude the employee from obtaining permanent residence, that conclusion should be included in the statement.
6. Exceptions to any of the requirements detailed in Section 5 above may be made only by the Director of Human Resources when it is in the best interest of AACPS.
7. When it has been determined that Anne Arundel County Public Schools will begin the process for sponsoring an employee for U.S. Permanent Resident status, the district will petition USCIS on behalf of the employee. The employee and his or her immediate supervisor must have completed and signed a "Request for US Permanent Residence for an Anne Arundel County Public Schools Employee". The employee must certify that he/she plans to remain in the position indefinitely and will not seek employment elsewhere. No Permanent Resident application process will commence prior to the receipt of the completed form. As such, Anne Arundel County Public Schools will:
- a. File an Application for Alien Employment Certification (typically known as "Labor Certification") with DOL.
 - b. Following approval of the DOL Labor Certification application, Anne Arundel County Public Schools will file with the immigration service an Immigrant Petition for an Alien Worker. Anne Arundel County Public Schools will pay the fee for this filing. All other fees, including attorney fees, remain the responsibility of the employee.

- c. Upon approval of the Immigrant Petition by the immigration service, the employee can file his/her individual application for adjustment of status to Permanent Resident with the immigration service provided that his/her priority date is “current” according to the DOS Visa Bulletin.
8. Applying for Permanent Resident status on behalf of a foreign national is a detailed and time-consuming process which requires a minimum of one (1) year, and often as much as three (3) or more years to complete, depending on the individual case. Government processing times vary and are subject to change. Failure to act within a reasonable time period may jeopardize the employee’s ability to obtain Permanent Resident status. If delayed too long, the employee’s non-immigrant status and resulting work authorization may expire before the residence process is complete, thus requiring the foreign national to depart the United States.
9. Employees may file a family-based Permanent Resident application on their own or through an attorney, without need for Anne Arundel County Public Schools’ sponsorship. Employees who elect to pursue this approach to Permanent Resident status must keep the Division of Human Resources, specifically the Employee Records File Room staff, apprised of its progress.
10. Certain employees, based on country of origin and occupation, may be eligible to apply for the annual Diversity Visa Lottery and, if eligible, should do so.
11. The Division of Human Resources, specifically the Employee Records File Room staff, must be notified immediately of any change in the employee’s status. Changes may require a new Eligibility of Employment Authorization.
12. AACPS will pay all fees and expenses for immigration-related applications, etc. as required by regulation. A beneficiary employee may incur some financial responsibility for expenses associated with submission of some applications.
13. The authority to sign applications and/or documents related to any immigration case rests exclusively with the Director of Human Resources or designee. No other persons are permitted to sign documents associated with immigration matters on behalf of Anne Arundel County Public Schools.

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Note previous regulation history: *None*