

REGULATION

ANNE ARUNDEL COUNTY PUBLIC SCHOOLS

Related Entries: GD

Responsible Office: CHIEF HUMAN RESOURCES OFFICER

EMPLOYMENT OF FOREIGN NATIONALS

A. PURPOSE

To establish procedures for addressing the employment of foreign nationals by Anne Arundel County Public Schools (AACPS).

B. BACKGROUND

The Board of Education of Anne Arundel County 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. ***Beneficiary Employee*** – an employee that is the beneficiary of an employer-sponsored immigration application.
2. ***Foreign National*** – an individual who is not a United States (U.S.) citizen, permanent resident, or resident alien of the United States.
3. ***H-1B Visa (Specialty Occupation Workers)*** – 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 their degree program. Generally, an H-1B visa is approved for an initial 3-year period with a 3-year extension available for a total of 6 years.
4. ***J-1 Visa (Exchange Visitor)*** – 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.

5. ***Labor Certification*** – an authorization by the U.S. Department of Labor (DOL) to hire a foreign national.
6. ***Nonimmigrant*** – a citizen of another country who has been admitted to the United States for a temporary period and for a specific purpose.
7. ***Permanent Resident or Resident Alien*** – an individual who has been lawfully admitted to the United States to live and work, an immigrant, or holder of a “green card.”

D. PROCEDURES

1. AACPS may offer employment to individuals with temporary, non-immigrant status such as a H-1B or J-1 visa. 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 shall discuss with the employee conditions which must be satisfied before AACPS will consider sponsorship for permanent residence.
3. Employees working on an H-1B visa status shall remain in the specific job authorized. Transfers or a promotion to a different job may invalidate the H-1B visa status. If such a transfer or promotion is contemplated, an amendment to the H-1B petition may be required.
4. The H-1B petition is employer- and job-specific. The H-1B beneficiary employee can only be employed by the employer who sponsored the beneficiary employee of the H-1B petition. In addition, they can only be employed in the specific job for which the H-1B was approved. If such a transfer or 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, AACPS may 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 met:
 - a. All performance evaluation ratings have been satisfactory or above;
 - b. There are no disciplinary actions or pending disciplinary actions;

- c. The immediate supervisor has provided a written request and recommendation for such action;
 - d. The employee agrees to remain employed by AACPS for at least 2 years beyond the date when they secure permanent resident status; and
 - e. A qualified immigration attorney submits to the Chief Human Resources Officer a statement indicating that they have 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 D.5. may be made only by the Chief Human Resources Officer when it is in the best interest of AACPS.
 7. When it has been determined that AACPS will begin the process for sponsoring an employee for U.S. permanent resident status, AACPS will petition United States Citizenship and Immigration Services (USCIS) on behalf of the employee. The employee and their immediate supervisor must have completed and signed a *Request for U.S. Permanent Residence for an Anne Arundel County Public Schools Employee* form. The employee must certify that they plan 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. Upon receipt of a completed form, AACPS shall:
 - a. File an application for labor certification with DOL.
 - b. Following approval of the DOL Labor Certification application, AACPS shall file with USCIS an Immigrant Petition for an Alien Worker. AACPS will pay the fee for this filing. All other fees, including attorney fees, shall be the responsibility of the employee.
 - c. Upon approval of the Immigrant Petition by USCIS, the employee may file their individual application for adjustment of status to permanent resident with the immigration service provided that their 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 1 year, and often as much as 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 nonimmigrant 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 AACPS's sponsorship. Employees who elect to pursue this approach to permanent resident status shall 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, are encouraged to do so.
11. The Senior Specialist for Workforce Diversity or Senior Specialist's designee shall immediately notify the Division of Human Resources, specifically the Employee Records File Room staff, of any change in the employee's status. Changes may require a new *Eligibility of Employment Authorization* form.
12. AACPS shall pay all fees and expenses for immigration-related applications as required by federal regulation. A beneficiary employee may incur some financial responsibility for expenses associated with submission of some applications.
13. The authority to sign applications or documents related to any immigration case rests exclusively with the Chief Human Resources Officer or the Chief Human Resources Officer's designee. No other persons are permitted to sign documents associated with immigration matters on behalf of the AACPS.

Regulation History: Issued 02/06/08; Revised 09/04/24

Note Previous Regulation History: None

Legal References: 8 USC Ch. 12 Immigration and Nationality; 22 USC Ch. 33 Mutual Educational and Cultural Exchange Act of 1961; 20 C.F.R. §655