

## **PERM Special Handling**

### What is PERM Special Handling?

1. An application filed with the U.S. Department of Labor that is the first step in a 3 step process for U.S. permanent residency (green card)
2. Limited to college or university positions where job duties include classroom instruction
3. Purpose is to test the U.S. labor market – employer must document a good faith recruitment was made and that no U.S. worker was found more qualified than the foreign national

### Requirements for PERM Special Handling

1. One print ad in a national professional journal is the minimum required – proof of any other recruitment should also be submitted
2. Job offer letter dated at least 18 months prior to filing date of the PERM
3. Wage offered meets the higher of the prevailing wage or actual wage
4. DOL Posting Notice posted at job worksite for 10 consecutive business days
5. Competitive recruitment and selection was conducted – final written report
6. Foreign national was the most qualified applicant

### The Print Ad (University provides)

1. At least one print ad in a national professional journal is required
2. The print ad must include
  - a. Name of employer
  - b. Job title
  - c. Job duties
  - d. Job requirements – education and any experience
  - e. Wage/salary not needed

Best Practice:

- Always run a print ad as part of the regular recruitment for professorship/teaching positions
- Save a legible copy of the print ad including name of publication and date

Job Offer Letter (University provides)

1. Job offer must be in writing and dated
2. Date on the job offer starts the 18 month clock for the PERM filing deadline

Best Practice

- Timing is essential; the department should decide asap whether to sponsor for green card and whether PERM will be needed
- Notify the attorney to start PERM no later than 15 months after the date of the offer letter
- Save a copy of the offer letter

Prevailing Wage Determination (attorney provides)

1. Attorney will request a prevailing wage determination (PWD) from the U.S. Dept. of Labor
2. The PWD is based on the job duties, minimum requirements and location
3. The wage or salary offered must be higher than the prevailing wage or the actual wage paid to others in the same position

Posting Notice (attorney provides)

1. Attorney prepares and sends to the university contact person with instructions
2. Posting Notice must include:
  - a. Name of employer
  - b. Job title
  - c. Duties
  - d. The salary or wage is not required
  - e. Statements required by the DOL regulations
  - f. Address of the DOL office for PERM filings
  - g. Date and place notice was posted

3. Posting Notice is posted for 10 consecutive business days
4. Post in a conspicuous place where U.S. workers can easily read it (eg. where OSHA or wage and hour notices are placed)
5. In House Media – the posting notice must also be published in any “in house” media normally used to recruit similar positions
6. Last date posted must be between 30 and 180 days before the PERM filing date

## Recruitment and Selection Report

(university provides; attorney assists)

1. Signed statement from an official with hiring authority
2. Includes names of members of the selection committee
3. Includes a detailed description of the competitive recruitment activities
4. Lists the total number of applicants
5. Lists lawful reasons why the foreign national is more qualified than each of the other candidates
6. Describes the foreign national’s educational & professional qualifications

## Best Practices for Universities

1. Always run at least 1 print ad when recruiting for a Professor/Teaching position
2. Print ad must contain employer name, job title, duties & minimum requirements
3. Save copies of:
  - a. Print ad
  - b. Any other ads (eg. website) or recruitment efforts
4. Keep a description of the recruitment and selection process including:
  - a. Names of applicants
  - b. Whether interviewed
  - c. Notes why not selected
  - d. Members of the selection committee

5. Keep copy of dated job offer letter
6. Discuss and decide as soon as possible whether to pursue green card
7. Notify attorney to start PERM Special Handling case no later than **15 months** after date of job offer (even sooner is much better)

### Timeline for PERM Special Handling

1. From date authorized to start PERM, it takes approximately 3 to 4 months to file the application. These steps take place:
  - a. University collects and provides required information and documentation
  - b. Attorney obtains prevailing wage determination
  - c. Attorney prepares the PERM application for review and signatures
  - d. Attorney reviews or prepares final report of recruitment & selection
  - e. Attorney prepares DOL posting notice and university posts for 10 consecutive business days
  - f. Must wait at least 30 days after last day of posting notice to file the PERM
2. Attorney files PERM with Dept of Labor; current DOL processing time is approximately 8 months.
3. If audit letter issued by DOL, can take 18 months
4. Total processing time can be 1 to 2 years, but subject to change