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 2019–20 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

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(ML) = Module Leader  
* = invited, not confirmed
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:
- **Reading:** “DOL FAQs on ‘Substitutions Plus’ Final Rule,” AILA Doc. No. 07071675
- **Reference Document:** Questions to Ask the Employer
- **Video:** Questions to Ask Employer
- **Reading:** “DOL FAQ on Notification and Consideration of Laid-Off U.S. Workers for PERM Applications,” AILA Doc. No. 14022460
- **Reference Document:** Checklist for Attorney and Staff with Overview of Full PERM Process
- **Video:** Mock Interview with Employer and Beneficiary
- **Hypotheticals**
- **Resources List**
  - A Curated List of Additional Publications, Recordings, and Resources

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- **Video:** Travel, Telecommuting, and Roving Beneficiaries
  - Where to Recruit
  - Peripatetic Workers
  - Various Unanticipated Worksites
  - Farmer Memorandum
- **Reading:** “DOL Policy Guidance on Alien Labor Certification Issues,” AILA Doc. No. 94052390
- **Hypotheticals**
- **Reference Document:** Job Comparison Chart
- **Reference Document:** Job Descriptions and Requirements Questionnaire
- **Exercise:** Drafting Effective Job Descriptions and Requirements
- **Resource List**
  - A Curated List of Additional Publications, Recordings, and Resources

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**MODULE 3: BENEFICIARY’S QUALIFICATIONS AND PREVAILING WAGE DETERMINATION**

**Faculty:**

Tiffany Chang Wu (ML), AILA Southern California Chapter Chair, Irvine, CA
Tiffany Lam-Bentley, Dallas, TX

**Module Outline:**

- **Video:** Overview and Ethical Considerations for Module 3: Beneficiary’s Qualifications and PWD
- **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
  - Alternate Wage Surveys
  - Requests for Information (RFIs) and Incorrect PWDs
- **Video:** After the PWD Is Issued

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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:

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• **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

**Reading:** “High-Volume Corporate Immigration Strategies: Striking a Delicate Balance Between Efficiency, Scalability and Risk Management,” *Corporate Counsel Business Journal*

**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

**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

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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
  o Include All Required Elements
Hypotheticals
Resource List
  o 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:
- Video: Overview and Ethical Considerations for Module 5: Filing
- Video: General Considerations for Filing
  o Deadlines for Filing ETA Form 9089
  o U.S. Department of Labor (DOL) Frequently Asked Questions (FAQs)
  o The Importance of Avoiding Inadvertent and Typographical Errors
  o Employee and Employer Review
  o Sign Under Penalty of Perjury
  o When Paper Filing Is Your Only Option: Practical Tips
  o Withdrawal of ETA Form 9089 and Filing a Second PERM
- Reference Document: Filing Deadline Checklist
- Video: Minimum Requirements: How to Complete ETA Form 9089
  o Minimum Education
  o Minimum Experience
  o Minimum Training
  o Minimum Skills
- Video: Alternate Requirements: How to Complete the ETA Form 9089
  o Alternate Requirements
  o Kellogg Language
- Sample Document: Completion of H.14 with Primary and Alternate Requirements
- Reading: “Practice Tip: Indicating Alternate Degree/Experience Requirements on ETA 9089,” AILA Doc. No. 13052241
- Video: Special Requirements and Unusual Issues: How to Complete the ETA Form 9089
  o Section H, including H.14

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PERM
Online Course

American Immigration Lawyers Association

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

Module Outline:

- **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
  - Explain Steps to Be Taken and Anticipated Timeline
- **Sample Document:** Cover Letter to DOL in Connection with Audit Response
- **Video:** Documenting Business Necessity

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• **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

**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
  - Negative PERM Decision: 30 Days to Decide to Request for Reconsideration (RFR)/Appeal vs. Refile
• **Video:** “Congratulations! PERM Has Been Certified”: Filing the I-140
  - Does the Offered Position Remain?
  - Does the Beneficiary Meet the Requirements?
  - File the I-140 Alone or Concurrent: Reviewing the Visa Bulletin
  - Ensuring the Company’s Ability-to-Pay
  - Considering the Future: Adjustment of Status or Consular Processing
• **Reading:** “AILA Comments on Draft RFE Template for Form I-140,” AILA Doc. No. 15060832
• **Reference Document:** I-140 Questionnaire and Checklist of Documents
• **Video:** Successor-in-Interest: Is the Petitioner the Same as the PERM Sponsor?
  - Corporate Reorganization
  - Establishing a Relationship Between the I-140 Petitioner and PERM Sponsor
  - New Petitioner’s Ability-to-Pay Proffered Wage
• **Reading:** “USCIS Memo on Successor-in-Interest Determinations in Adjudication of Form I-140 Petitions,” AILA Doc. No. 09090362
• **Video:** AC21 Issues
  - Filing I-140 Premium Processing
  - Does the Foreign National Need an Approved I-140 to Remain Work Eligible?
  - Retaining the Priority Date
  - Same or Similar Occupation

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• **Reading:** “AC21 Guidance Amended Regarding I-140 Portability,” AILA Doc. No. 06092763
• **Sample Document:** Client Requesting Retention of Earlier Priority Date
• **Exercise:** Completing an I-140 Petition Using Changed Fact from PERM
• **Video:** I Have Some Bad News: PERM Was Denied
  - Basis for Denial
  - Two-Step Response to DOL: RFR and Appeal
  - Going Directly to Appeal
  - Refiling Instead of RFR or Appeal
• **Video:** Mock Dialogue: Denial Discussion with Client
  - Explaining to Client That PERM Was Denied
  - What Does a Denial Mean?
  - Alternative Considerations and Strategies
• **Reading:** “DOL Practice Pointer: Does a Compliant PERM Case That Has an Inadvertent Typo or Other Harmless Error Have a Chance?” AILA Doc. No. 16011901
• **Sample Document:** Sample BALCA Appeal
• **Hypotheticals**
• **Resources List**
  - A Curated List of Additional Publications, Recordings, and Resources

**ONLINE COURSE COMMITTEE**

Tiffany Martinez, AILA New Members Division Steering Committee Vice Chair, San Francisco, CA
Vincent Lau, AILA DOL Liaison Committee Vice Chair, Cambridge, MA
Ian David Wagreich, AILA Business Immigration Response Team/DOL Liaison Committee, Chicago, IL
Elizabeth L.A. Garvish, Atlanta, GA
Ganesh Kalyanaraman, Sacramento, CA
Avalyn Castillo Langemeier, Houston, TX
Brenda Oliver, Washington, DC

Kate Molski, AILA Learning and Development Specialist, Washington, DC

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