PREFACE

Much of this book is new. In addition to many fresh and updated articles addressing important technical PERM issues, this edition includes a completely new, step-by-step “how to” PERM guide with accompanying sample templates. I highlight below some of the key features of this new edition and also commend those whose extraordinary efforts have helped to make this edition possible.

Overall, this Edition Makes Learning and Succeeding at PERM Easier for Newer Practitioners.

As I watched prior editions continually improve over the last 15 years, I always felt that the book, despite its excellence in key technical issues, should provide more practical guidance for newer practitioners. I felt it should be a book that someone completely new to PERM—and even new to immigration law—could pick up and use as a tool to safely and ethically complete the PERM-to-green card path for their clients.

New Step-by-Step Roadmap to PERM Success (Including 25 Templates to Use Along the Way)

Much of the new work can be found in Section 1, which focuses on helping newer practitioners establish their bearings in the PERM world. In the first article, Elizabeth Peng, Jessica E. Robles, and I try to describe the “feel” of PERM practice by introducing the institutions and people likely to be encountered along the overall PERM-to-green card path.

The second article is what I consider the backbone of this new edition: a detailed, easy-to-follow, step-by-step guide on “what to do and when to do it” when working on PERM cases. Contributing editors Shannon N. Barnes, Alexander Dgebudze, Jessica E. Robles, Robert P. Webber, and Anthony E. Weigel did a terrific job of developing this article and its accompanying set of 25 PERM-related templates for successfully completing the PERM labor certification process. (Two templates include the helpful prior contributions of Norman C. Plotkin, Josie Gonzalez, and Elizabeth Poh.)

Following the “what to do and when to do it” article is an update of Steven Clark’s helpful article dissecting and examining each item on the ETA Form 9089 itself. Bart Stroupe and associate editor Danielle Rizzo close out Section 1 with their valuable essay on how to safely address common PERM-related ethical issues.

Updated Guidance on Successfully Completing the Entire PERM-to-Green Card Path

Section 2 encourages practitioners to plan out the entire process as much as reasonably possible—all the way through the green card application—before running the PERM recruitment. So much of the success in PERM and success in client relations depend on how well you handle timing issues, and this section provides guidance on how to ensure that the foreign-national client can make it all the way to a green card and not just through the challenging PERM application process.

New and Updated Guidance on Key Technical PERM Issues

Practitioners of all levels of experience must sometimes overcome difficult technical issues to keep a particular case moving forward. Section 3 presents many outstanding new and updated articles to help practitioners resolve potential PERM problems. The excellent work in this section includes the following new articles: Howard W. Gordon, “The 10 Additional Recruitment Steps for Professional Positions”; Alexander Dgebudze, “When and How Should Employers Use the Kellogg Language in PERM Applications?” A. James Vázquez-Azpiri, “PERM Actual Minimum Requirements, with Specific Reference to Situations Where a Labor Certification Application Beneficiary Has Gained Experience, Training, or Education After Joining the Employer”; Alexander Dgebudze, “Hiring the Best Qualified Worker: PERM’s ‘Infeasibility to Train’ Exception”; John E. Exner IV and Kwang-yi Ger Gale, “Spotting Facts That Tell You That PERM Will Be Difficult or Impossible—And Seeking Ways to Address Such Difficulties.”


New and Updated Guidance on PERM Audits, Appeals, and Revocations

No matter how hard we try, some cases fail, and DOL has many weapons to deny PERM applications. In egregious cases, DOL can punish the employer, too. Section 4 addresses these issues, including: (1) how to respond to audits; (2) what supervised recruitment looks like; (3) how to prepare a BALCA appeal; and (4) why appropriate document retention can assist in protecting the employer from DOL punishment.

Two excellent new articles include: Shannon N. Barnes, “Supervised Recruitment—A Journey Back to the Future”; and Shannon N. Barnes & Diana Vellos Coker, “It Ain’t Over ’til BALCA Sings: Carrying your PERM Through the Final Act of Appellate Review.”

Prior authors also have updated two outstanding articles, including: Alan Tafapolsky & J. Anthony Smith, “PERM Audits: Turn, Turn, Turn”; and Susan J. Cohen, “Worst Case Scenarios: Revocation, Invalidation, Debarment, Suspension, Appeal, and the Paramount Importance of Document Retention.”

Updated Guidance on Occupation-Specific PERM Issues

Return to the Historical Context of PERM

Section 6 seeks to help newer practitioners develop a better understanding of PERM through its historical roots and includes Lorna Rogers Burgess’s excellent article, “How the PERM Labor Certification Process Evolved.”

Recognition of Those Who Developed the Path for this Book

AILA could never have brought this edition to where it is without the underlying path of excellence laid out by the late David Stanton and by Josie Gonzalez, Ester Greenfield, Susan J. Cohen, and Jane W. Goldblum, all of whom followed David as editors-in-chief and teamed with other talented editors, authors, and contributors to improve significantly the scope and content of each subsequent edition. Practitioners familiar with the prior four editions can attest to the great success of David, Josie, Ester, Susan, and Jane in taking this book to successively higher levels by building on the excellence of the prior editions.

Appreciation for Those Who Contributed so Much to this New Edition

I thoroughly enjoyed working on this new edition, and many people deserve credit for its success. The authors provided well-written articles, and the associate editors—Cheryl Lenz-Calvo, Elliot C. Lichtman, Amy R. Novick, Danielle M. Rizzo, and Lilah S. Rosenblum—did an excellent job of editing the articles and providing valuable guidance to the authors. In particular, I appreciate the willingness of Danielle to pick up a last-minute writing assignment while still managing to keep up with the steady flow of articles to review and edit.

I am also grateful for the work of the team of contributing editors—Shannon N. Barnes, Alexander Dgebuadze, Jessica E. Robles, Robert P. Webber, and Anthony “Tony” E. Weigel. When I was asked to lead the development of this new edition, I knew it would take a lot of time and effort to create from scratch the long, step-by-step “what to do and when to do it” article and to develop the accompanying two dozen templates. Shannon, Alex, Jessica, Bob, and Tony did everything I could possibly have wanted, and I am proud of what they have achieved. All of them exceeded my expectations at every step of the way.

Finally, I appreciate the support of AILA’s publications experts. Tatia L. Gordon-Troy, Director of AILA Publications, provided valuable support and guidance on key decisions along the way, and Mary Johnson, Senior Marketing Associate, did a great job analyzing and communicating the primary benefits of this new edition. Last, but absolutely not least, Danielle M. Polen, Associate Director of AILA Publications, worked tirelessly to keep this book on track and to resolve the inherent challenges of developing and publishing a book like this. Her guidance and help were always valuable, and her consistent calm and keen sense of humor invaluable.

Cletus M. Weber  
Editor-in-Chief  
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