

# Chart Of Documents To Be Stored For PERM By Julie Pearl, Esq.



## About the Author

**Julie Pearl** is Managing Attorney of Pearl Law Group, an immigration firm listed as the top woman-owned law firm in the San Francisco Area (*S.F. Business Times*, 9/03 – present) and ranked #210 on the Inc. 500 List of Fastest Growing Companies in America (*Inc. Magazine*, 10/02). In 2001, Julie and her husband co-founded the company that licenses the award-winning case management software, ImmigrationTracker.

She is listed in *The International Who's Who of Business Immigration Lawyers* and was featured in the book *The Moral Advantage: How to Succeed in Business by Doing the Right Thing* (Stanford University Project on Good Work, 2004). She received a BA degree from Stanford University, an MPA from Harvard University, and a JD from the University of California's Hastings College of the Law.

## CHART OF DOCUMENTS TO BE STORED FOR PERM

<b>RECRUITMENT REPORT DOCUMENTATION</b>	
	<ul style="list-style-type: none"> <li>• the recruitment steps undertaken and the results achieved</li> <li>• the number of hires and if applicable, the number of U.S. workers rejected, summarizing the lawful job-related reasons for their rejections.</li> </ul>

<b>REQUIRED NOTICES</b>	<b>DOCUMENTATION</b>
Notice to bargaining representative	A copy of the letter and the Application for Permanent Employment Certification form sent to the bargaining representative. <sup>1</sup>
Posted notice	A copy of the posted notice, with a statement as to where it was posted and copies of all in-house media (electronic or hard copy) used to distribute the notice. <sup>2</sup>
Private household notice	Copy of posted notice (required if the household employs at least one U.S. worker) <sup>3</sup>
<b>RECRUITMENT STEPS</b>	<b>DOCUMENTATION</b>
Job order	The start and end dates of the job order entered on the application. <sup>4</sup>
Newspaper advertisements	Copies of the newspaper pages in which the advertisements appeared or proof of publication furnished by the newspaper. <sup>5</sup>
Professional journal in lieu of one Sunday ad	A copy of the page in which the advertisement appeared. <sup>6</sup>
Job fairs	Brochures advertising the fair and newspaper advertisements in which the employer is named as a participant in the job fair. <sup>7</sup>
Employer's website	Dated copies of the pages from the site showing the advertisement of the occupation stated in the PERM

<sup>1</sup> C.F.R. H656@69FedH. Reg. 77.326.77.393 (Dec. 27, 2004).

<sup>2</sup> C.F.R. H656@69FedH. Reg. 77.326.77.393 (Dec. 27, 2004).

<sup>3</sup> C.F.R. H656@69FedH. Reg. 77.326.77.393 (Dec. 27, 2004).

<sup>4</sup> C.F.R. H656@69FedH. Reg. 77.326.77.393 (Dec. 27, 2004).

<sup>5</sup> C.F.R. H656@69FedH. Reg. 77.326.77.393 (Dec. 27, 2004).

<sup>6</sup> C.F.R. H656@69FedH. Reg. 77.326.77.393 (Dec. 27, 2004).

<sup>7</sup> C.F.R. H656@69FedH. Reg. 77.326.77.393 (Dec. 27, 2004).

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	application. <sup>8</sup>
Job Search Website other than the employer's	Dated copies of pages from each site that advertised the occupation. <sup>9</sup>
On-Campus recruiting	Copies of the notice issued by the institution's placement office, including the employer's name and the interview date(s). <sup>10</sup>
Trade or professional organizations	Copies of pages from trade journals or newsletters showing ads for the specific occupation. <sup>11</sup>
Placement firms	Copies of contracts between the employer and the firm, and ads placed by the firm for the specific occupation, and/or other documentation that the firm conducted recruitment for the position in the PERM application. <sup>12</sup>
Employee referral program with incentives	Dated copies of employer notices or memoranda advertising the program and noting the incentives offered. <sup>13</sup>
Campus placement offices	A copy of the employer's notice of the job opportunity provided to the campus-placement office. <sup>14</sup>
Local and ethnic newspapers	A copy of the page showing the ad in the newspaper. <sup>15</sup>
Radio and television ads	Copy of the text of employer's ad, plus written confirmation from the radio or television station that the ad was aired. <sup>16</sup>
<b>SPECIFIC CIRCUMSTANCES</b>	<b>EXTRA DOCUMENTATION</b>
Foreign language requirement	Statement describing the nature of the occupation and the need to communicate with a majority of the employer's customers, contractors, or employees in a language other than English. Documentation could include the number and proportion of employer's clients, contractors, or employees

<sup>8</sup> 656.17(e)(ii)(B).

<sup>9</sup> 656.17(e)(ii)(C).

<sup>10</sup> 656.17(e)(ii)(D).

<sup>11</sup> 656.17(e)(ii)(E).

<sup>12</sup> 656.17(e)(ii)(F).

<sup>13</sup> 656.17(e)(ii)(G).

<sup>14</sup> 656.17(e)(ii)(H).

<sup>15</sup> 656.17(e)(ii)(I).

<sup>16</sup> 656.17(e)(ii)(J).

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	<p>who cannot communicate in English, and/or a detailed plan to market products or services in a foreign country.<sup>17</sup></p>
<p>Combination of duties</p>	<ol style="list-style-type: none"> <li>1. The employer has normally employed persons for that combination of duties; and/or</li> <li>2. Workers customarily perform the combination of occupations in the area of intended employment, and/or</li> <li>3. The combination of job opportunity is based on a business necessity. Combination occupations can be documented by:             <ol style="list-style-type: none"> <li>1. Position descriptions and relevant payroll records; and/or</li> <li>2. Letters from other employers stating their workers normally perform the combination of occupations in the area of intended employment; and/or</li> <li>3. Documentation that the combination occupation arises from a business necessity.<sup>18</sup></li> </ol> </li> </ol>
<p>Employment as permanent, full-time work</p>	<p>Position descriptions and payroll records for the job opportunity involved in the Application for Permanent Employment Certification.<sup>19</sup></p>
<p>Worker influence and control</p>	<ol style="list-style-type: none"> <li>1. A copy of the articles of incorporation, partnership agreement, business license or similar documents;</li> <li>2. A statement of the financial history of the entity, including the total investment in the entity and the amount of investment of each officer or incorporator or partner and the worker beneficiary;</li> <li>3. A list of all officers and shareholders or partners of the entity, their titles and positions in the business structure, describing their relationships to each other and to the worker beneficiary;</li> <li>4. The name of the business official with primary responsibility for interviewing and hiring applicants for positions within the organization and the name(s) of the business official(s) having control or influence over hiring decisions involving the position for which labor certification is sought; and</li> <li>5. If the worker is one of ten or fewer employees, document any family relationship between the employees and the worker.<sup>20</sup></li> </ol>

<sup>17</sup> 656.17(h)(2).

<sup>18</sup> 656.17(h)(3).

<sup>19</sup> 656.3 (definition of “employment”).

<sup>20</sup> 656.17(l).

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<b>SPECIAL OCCUPATIONS</b>	<b>EXTRA DOCUMENTATION</b>
Physical Therapist qualified for Schedule A	Statement signed by physical therapy licensing official in the state of intended employment, stating the worker is qualified to take the state's written licensing examination for physical therapists. <sup>21</sup>
Professional Nurse qualified for Schedule A	Certificate showing the worker has passed the National Council Licensure Examination for Registered Nurses (NCLEX-RN) – or -- Certificate from the Commission on Graduates of Foreign Nursing Schools (CGFNS) giving the worker a full and unrestricted permit or license to practice nursing in the state of intended employment. <sup>22</sup>
Schedule A Exceptional Ability	Evidence of widespread acclaim and international recognition accorded the worker by recognized experts in the worker's field; proof that current and intended work in the United States require exceptional ability. In addition, evidence is required to document at least two of the following seven criteria: <ol style="list-style-type: none"> <li>1. Receipt of internationally recognized prizes or awards for excellence in the field for which certification is sought;</li> <li>2. Membership in distinguished international associations in the field – those that require outstanding achievement of their members, as judged by recognized international experts;</li> <li>3. Published materials in professional publications about the worker in the field for which certification is sought, including each material's title, date, and author;</li> <li>4. Participation as a judge of the work of others in the same or a related field of specialization;</li> <li>5. Original scientific or scholarly research, contributions of major significance in the field for which certification is sought.</li> <li>6. Authorship of published scientific or scholarly articles in the field for which certification is sought in international professional journals or professional journals with an international circulation;</li> <li>7. Display of work at artistic exhibitions in more than one country.<sup>23</sup></li> </ol>
Exceptional ability in the	Evidence that the worker's experience within the past year,

<sup>21</sup> 656.15(c)(1).

<sup>22</sup> 656.15(c)(2).

<sup>23</sup> 656.15(d)(1).

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performing arts	<p>and intended work in the United States, require exceptional ability. Exceptional ability is documented with evidence of the following:</p> <ol style="list-style-type: none"> <li>1. Current widespread acclaim and international recognition accorded to the performer, such as the receipt of internationally recognized prizes or awards for excellence;</li> <li>2. Published material by or about the worker, such as critical reviews or articles in major newspapers, periodicals and/or trade journals (indicating title, date, and author);</li> <li>3. Earnings commensurate with the claimed level of ability;</li> <li>4. Play bills and star billings;</li> <li>5. Performances held and/or scheduled in establishments with outstanding reputations;</li> <li>6. Performance in a leading or starring capacity within the past year for leading theatres or reparatory companies, ballet troupes, orchestras, or other organizations.<sup>24</sup></li> </ol>
Necessity for live-in requirement	<p>Evidence of parents' difficult work schedules, requiring frequent travel or engagements on short notice. Documentation could include travel vouchers or a detailed listing of the frequency and length of employers' absences from the home.<sup>25</sup></p>
Required statement for a live-in requirement	<p>A statement describing the household live-in accommodations, including the following:</p> <ol style="list-style-type: none"> <li>1. Whether the residence is a house or apartment;</li> <li>2. The number of rooms in the residence;</li> <li>3. The number of adults and children (plus ages of the children) residing in the household; and</li> <li>4. That free board and a private room not shared with any other person will be provided to the worker.<sup>26</sup></li> </ol>
Contract for a live-in requirement	<p>Two copies of the dated and signed employment contract, with the requisite details (wages, hours, private room and board for the worker, two weeks' notice provision, etc.).<sup>27</sup></p>
Worker's paid experience where living-in is a	<p>Statements from past or present employers documenting the wages paid, start and end dates of employment, hours of</p>

<sup>24</sup> 656.15(d)(2).

<sup>25</sup> 656.17(j)(2).

<sup>26</sup> 656.19(b)(1).

<sup>27</sup> 656.1.9(b)(2).

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requirement	work per day, number of days worked per week, place of employment, detailed statement of duties performed on the job, equipment and appliances used. The name and address of the signatory must show on each statement, along with the signature date. <sup>28</sup>
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<sup>28</sup> 656.19(b)(3).