

Requirements for Hiring Foreign Citizens

Around 2009, the law changed outlining new requirements for hiring foreign citizens. The new requirements can be found in the Guide to Judiciary Policy, Vol. 12, § 515.50 (see below):

§ 515 Employment Eligibility and Citizenship

This section describes legal and policy requirements on employment eligibility and citizenship.

§ 515.20 Authority

Employers in the United States are required to verify each employee's citizenship and employment eligibility under the Immigration Reform and Control Act of 1986, Pub. L. No. 99-603 (8 U.S.C. § 1324(a)).

§ 515.30 Applicability

The employment eligibility and citizenship requirements described in this section apply to judges and court unit and FPDO employees.

§ 515.40 Immigration Law Requirement

- (a) For any work to be performed in the United States, immigration law requires private and public employers to hire only individuals who are eligible to be employed. Those individuals are:
- (1) A citizen either by birth or naturalization or a national (see: 8 U.S.C. § 1408) of the United States;
 - (2) An alien assigned by the U.S. Citizenship and Immigration Services (CIS), Department of Homeland Security, to a class of immigrants authorized to be employed (aliens who are lawfully admitted for permanent residence by the CIS are the largest class of aliens in this category); or
 - (3) An individual alien who is expressly authorized by the CIS to be employed.
See: U.S. Citizenship and Immigration Services.

§ 515.50 Appropriations Act Citizenship Requirement

- (a) Current appropriations law prohibits the use of appropriated funds to pay the compensation of any employee of the U.S. federal government where the duty location is in the continental U.S. unless such person is a:
- (1) U.S. citizen;
 - (2) Person who owes allegiance to the U.S. (e.g., nationals of American Samoa, Swains Island, and the Northern Mariana Islands, and nationals who meet other requirements described in [8 U.S.C. § 1408](#));
 - (3) Person admitted as a refugee or granted asylum who has filed a declaration of intention to become a lawful permanent resident and then a citizen when eligible; or
 - (4) Lawful permanent resident (i.e., green card holder) who is seeking citizenship as outlined in [8 U.S.C. § 1324b\(a\)\(3\)\(B\)](#). A lawful permanent resident "seeking citizenship":

(A) May not apply for citizenship until he or she has been a permanent resident for at least five years (three years if seeking naturalization as a spouse of a citizen),

(B) Must apply for citizenship within six months of becoming eligible, and

(C) Must complete the process within two years of applying (unless there is a delay caused by the processors of the application).

Note: Some noncitizen applicants who are permanent residents may not yet be eligible to apply for citizenship at the time they begin judiciary employment. Such individuals may still lawfully be employed if they provide an affidavit indicating that they intend to apply for citizenship when they become eligible to do so. Court units and FPDOs should require all noncitizen applicants who are offered judiciary employment to complete an affidavit indicating that they are seeking or intend to apply for citizenship. Sample text for an affidavit follows:

I, _____ [name], hereby declare that I am lawfully admitted for permanent residence in the United States, and that I am either (a) currently seeking citizenship or (b) intend to become a citizen when I am eligible, as outlined in [8 U.S.C. § 1324b\(a\)\(3\)\(B\)](#). I declare under penalty of law that the foregoing is true and correct.

Executed on _____ [date].

_____ [signature]

(b) The appropriations act citizenship law does *not* apply to or impact an:

(1) Individual who was serving as an officer or employee of the United States on December 16, 2009, the date of enactment.

Note: Only those employees who were appointed after December 16, 2009 may be impacted. All others are "grandfathered."

(2) Employee in Alaska, Hawaii, the Virgin Islands, Puerto Rico, Guam, or the Northern Mariana Islands.

Note: The new law applies only to employees whose duty stations are in the continental United States.

(3) Unpaid volunteer.

Note: The citizenship restrictions apply only to the payment of compensation. As with all volunteers (except for Workforce Innovation and Opportunity Act of 2014 or federal work-study volunteers), however, employing offices must still require verification of employment eligibility under U.S. immigration law (i.e., completion of Form I-9, Employment Eligibility Verification). **See:** [§ 515.40](#).