

POLICY

SOMERSET COUNTY
BOARD OF EDUCATION

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Subject: Employment of Foreign Nationals Policy	Date Approved: December 15, 2009
	Date Effective: December 15, 2009

1. PURPOSE

Somerset County Public School's policy establishes a guideline for consistent decisions and practices to ensure compliance with Federal regulations governing the employment of foreign nationals. It serves to protect the organization and individual employees from substantial penalties that may be incurred in the employment of unauthorized foreign nationals. The policy applies to the employment of foreign nationals regardless of their status at Somerset County Public Schools.

2. DEFINITIONS

Foreign National: An individual who is not a U.S. Citizen, permanent resident or resident alien of the United States.

Employee: An employee of Somerset County Public Schools in an individual who performs services that are subject to the will and control of the school system in terms of what must be done and how it will be done. An employee is paid through the payroll system, with accompanying tax withholding as provided by law.

Volunteer: An individual who performs activities to benefit the organization and who does not receive, nor expects to receive, payment or remuneration of any kind for such labor or service at any time.

Permanent Resident or Resident Alien: An individual who has been lawfully admitted to the United States to live; an immigrant; or holder of a green card.

Nonimmigrant: A citizen of another country who has been admitted to the United States for a temporary period and for a specific purpose.

H-1B Visa: A temporary, nonimmigrant visa issued to a foreign national who has specialized education credentials and who has been offered a position requiring the application of a theoretical and specialized body of knowledge acquired in his/her degree program.

Firm Employment Offer: An oral or written communication in which a hiring authority makes an offer to employ a specific person in a specific position at a specified rate of pay to start within a certain time frame.

3. CONDITIONS

- A.** Somerset County Public Schools may employ, or make employment offers to foreign nationals only when U.S. citizens or permanent residents of equal training, experience, and competence for the position are unavailable. Such a determination can only be made following a completely documented search and evaluation process. Employment of foreign nationals will be authorized only under the provisions of this policy and only when conditions and visa requirements established by Federal law are assured and documented. Under no circumstances may any employee of Somerset County Public Schools knowingly employ, or contract employment with, an unauthorized alien.
- B.** Any offer of employment to a foreign national under a nonimmigrant program is considered temporary and is subject to the terms and conditions of the specific program's work authorization. The offer may be rescinded in the event of foreign national not being legal to work in the job classification offered.
- C.** Only individuals with three years or more of H-1B Visa status may be considered for employment.
- D.** A foreign national may choose to retain an attorney to represent his/her interest; however, Somerset County Public Schools will not pay for this private representation or any expenses to renew an H-1B Visa other than the renewal filing fee. (\$820/yr.)
- E.** Nothing in this policy shall be used as the basis for discrimination against any individual or group because of race, sex, age, color, religion, national origin, disability or veteran status; nor will it be construed to be a basis for circumventing equal employment opportunity laws, policies, and standard employment procedures.
- F.** For purposes of administering this policy, Somerset County Public Schools will operate as a separate employer in matters related to petitions and applications for work authorization.
- G.** The Superintendent of Schools will assign authority and responsibility to assure that the provisions of this policy are properly administered by the Human Resources Division.
- H.** The Human Resources Division is responsible for ensuring that employment offers to foreign national applicants or candidates for positions are contingent upon receipt of necessary work authorization documents.