



PERM Compliance after the Apple Settlement

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Apple: The Latest DOJ Settlement.

After a [new](#) settlement, Apple is required to pay up to \$25 million in backpay and civil penalties due to their recruitment practices for PERM related job openings. Specifically, Department of Justice (DOJ) determined that Apple discriminated against U.S. citizens when handling PERM recruitment by requiring all PERM position applicants to mail in paper employment applications and not considering employment applications that were submitted electronically. In addition, the DOJ found issue with Apple neglecting to include the PERM related job openings on their website, which is the company's standard practice for all other job openings.

In addition to the monetary settlement, Apple has specifically agreed to more closely align their PERM recruitment practices with their standard recruiting practices and train all future employees on how to conduct recruitment while ensuring they are following the Immigration and Nationality Act's anti-discrimination requirements.

Has this happened before?

2 years ago, the DOJ reached a [similar](#) \$14.25 million settlement with Facebook alleging its PERM recruitment practices discriminated against U.S. citizens. Specifically, the DOJ found that Facebook did not adhere to its standard recruiting practices for PERM positions and instead used recruiting methods designed to deter U.S. workers from applying, such as by requiring PERM position applicants to mail in applications.

Under the settlement, Facebook is required to conduct more expansive recruitment for PERM positions, accept electronic submission of applications, and is subject to ongoing Department of Labor (DOL) audits.

What does this mean?

After the Facebook settlement, the DOJ stated that it will be “vigorously” enforcing the law no matter the company’s size. However, it is important to note that the specific requirements placed on Apple and Facebook are **not** currently regulatory requirements. Yet, they do provide insight to the DOJ’s specific interpretation of “good faith” recruitment which means that the employer must show that they are making a “good faith” effort to hire the first available able, willing, and qualified employee. Part of good faith also includes contacting all applicants in a reasonable time period. The DOJ’s interpretations are not precedent or binding and the government cannot impose regulations that go further than the current regulations. Therefore, we recommend that employers look into their current recruitment practices (both PERM and non-PERM) and analyze the impact of the recruitment methods.

Got any questions? [Contact Grossman Young & Hammond for a consult.](#)

