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TWO ALERTS

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H1- B Visas Still Available; “TAP” Aims to Reform Teacher Performance

H-1 B Visas Still Available for Employers and Foreign Professionals

By Deborah E. Klahr

As of June 26, 2009, the U.S. Citizenship & Immigration Services (the “USCIS”) is reporting that it has received only 44,800 H-1B cap-subject petitions and 20,000 advance degree cap-exempt petitions for Fiscal Year 2010 Employment. This latest update, which is basically unchanged in numbers from the previously-issued update, means that there are more than 20,000 H-1B cap-subject visas still available.

This is a very significant change from past years. Ordinarily, H-1B visa numbers become unavailable almost immediately upon the opening of the window for filing these petitions, which starts on April 1 of every year. The continued availability of H-1B visa numbers this long after they became initially available is a direct result of current market forces and unemployment concerns. Foreign professionals with H-1B cap-subject petitions filed in the current period can begin work with a new employer as soon as October 1, 2009.

Despite the economic climate, many industries are still hiring and many highly qualified foreign professionals are looking for new employment. The current availability of H-1B visa numbers provides an unusual opportunity for employers seeking to employ foreign professionals. Likewise, new college and master’s graduates as well as individuals completing residency or fellowship programs now have the unusual opportunity to obtain employment in H-1B cap-subject positions. There is no certainty about how long these opportunities will last.

Teacher Advancement Program Designed to Reform Teacher Performance and Development

By Anthony P. Sciarrillo

The Teacher Advancement Program (“TAP”), an alternative program directed at reforming teacher performance and development, received acclaim earlier this year from the U.S. Secretary (*cont’d* ➔)

of Education Arne Duncan and President Barack Obama. Presently, more than two hundred schools utilize TAP.

TAP focuses on reforming teaching methodology, evaluation, development, and compensation. TAP cites multiple studies that show that districts using the program have experienced marked growth in their students' achievements.

TAP features a unique career ladder for teachers. They can progress from a career teacher to a mentor teacher to a master teacher. Progression along the career path is based on a teacher's abilities, accomplishments, and interests. As one progresses, a teacher encounters additional responsibilities and receives increased compensation. Career teachers teach in the classroom full-time. Mentor teachers assist with professional development programs while also working in the classroom. Master teachers work in other teachers' classrooms full-time: observing lessons, crafting teaching strategies, and team teaching. Furthermore, mentor and master teachers demonstrate lessons, coach teachers, and conduct peer evaluations.

Perhaps the most publicized component of TAP is its performance-based pay for teachers. Mentor and master teachers receive bonuses based on their increased responsibilities and their extended work schedule. In some districts, master teachers' school calendars are extended up to 199 days. Additionally, all teachers are eligible for bonuses based on their evaluations, their classroom's achievement growth, and the school's achievement growth. This compensation system offers teachers a merit-based bonus in addition to their base salary.

TAP also implements a program for applied professional growth for its teachers. Teachers set learning goals for their students based on an analysis of their students' performance. Teachers then work collaboratively to identify and use research-based learning strategies to meet these learning goals. Teachers observe and assist one another when one's class is struggling

to understand a concept or lesson. Moreover, teachers reflect and measure how their strategies addressed their class's goals. TAP teachers are evaluated approximately five times a year. "Cluster" teacher groups, based on grade or subject, meet several times weekly to review data and collaborate as part of TAP's professional growth model.

Cost considerations may cause some districts to hesitate to implement TAP. Salary augmentations, release time for mentor teachers, performance awards, professional development programs, increased testing of students, and training all factor into the cost of implementing TAP.

However, the Teacher Incentive Fund ("TIF") may be a source of monetary relief for some districts that implement TAP. TIF, a federal grant, is available to high-need schools that develop and implement a performance-based compensation system for their teachers and principals. High-need schools that have an enrollment greater than thirty percent coming from low-income families, as determined by state poverty measures or reduced-price lunch subsidies, are eligible to apply for this five-year grant. Over the duration of the grant, a grantee must increase its share of funds from sources besides the grant to pay. The grantee must begin to implement the program by the fifth year of the grant. Notably, by the final year of the grant, the grant may fund only twenty-five percent of the grantee's differential compensation costs. Thus far, seven grantees have adopted TAP.

Districts, especially high-need districts, seeking an alternative approach to attract and retain engaging educators should consider implementing TAP in their district.



The information provided here is necessarily general and is not intended as legal advice or a substitute for legal advice. If you have any questions regarding this Alert, please contact Anthony P. Sciarrillo of the EdLaw Group at edlawgroup@lindabury.com.