



Handbook for Employers

Guidance for Completing Form I-9
(Employment Eligibility Verification Form)



U.S. Citizenship
and Immigration
Services

M-274 (Rev. 01/22/17)

Obtaining Forms and Updates

You may get electronic copies of English and Spanish versions of Form I-9 from the U.S. Citizenship and Immigration Services (USCIS) website uscis.gov. To order Form I-9 by telephone, call the USCIS Forms Request Line toll-free at 800-870-3676.

Because immigration law and employment eligibility verification regulations can change over time, we encourage you to periodically check I-9 Central at uscis.gov/i-9-central for updated information.

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Part One

Why Employers Must Verify Employment Authorization and Identity of New Employees

In 1986, Congress reformed U.S. immigration laws. These reforms, the result of a bipartisan effort, preserved the tradition of legal immigration while seeking to close the door to illegal entry. The employer sanctions provisions, found in section 274A of the Immigration and Nationality Act (INA), were added by the Immigration Reform and Control Act of 1986 (IRCA). These provisions further changed with the passage of the Immigration Act of 1990 and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996.

Employment is often the magnet that attracts individuals to reside in the United States illegally. The purpose of the employer sanctions law is to remove this magnet by requiring employers to hire only individuals who may legally work here: U.S. citizens, noncitizen nationals, lawful permanent residents, and aliens authorized to work. To comply with the law, employers must verify the identity and employment authorization of each person they hire, complete and retain a Form I-9, Employment Eligibility Verification, for each employee, and refrain from discriminating against individuals on the basis of national origin or citizenship. At the same time that it created employer sanctions, Congress also prohibited employment discrimination based on citizenship, immigration status, and national origin. This part of the law is referred to as the anti-discrimination provisions. (See Part Four for more information on unlawful discrimination.)

This handbook provides guidance on how to properly complete Form I-9, which helps employers verify that individuals are authorized to work in the United States. Every employer must complete a Form I-9 for every new employee you hire after Nov. 6, 1986. This includes U. S. citizens and noncitizen nationals who are automatically eligible for employment in the United States.

Form I-9, instructions and this M-274 are available for download from the USCIS website at uscis.gov/i-9-central. Employers may also call the USCIS Forms Request Line toll-free at 800-870-3676 to get print versions of Form I-9 and instructions.

Employers must use the current version of Form I-9. A revision date with an “N” next to it indicates that all

previous versions with earlier revision dates are no longer valid. You may also use subsequent versions that have a “Y” next to the revision date.

Form I-9 is available in English and Spanish. Employers in the United States and U.S. territories may use the Spanish version of Form I-9 as a translation guide for Spanish-speaking employees, but must complete and retain the English version. Employers in Puerto Rico may use either the Spanish or the English version of Form I-9 to verify new employees.

The Homeland Security Act

The Homeland Security Act of 2002 created an executive department combining numerous federal agencies with a mission dedicated to homeland security. On March 1, 2003, the authorities of the former Immigration and Naturalization Service (INS) were transferred to three new agencies in the U.S. Department of Homeland Security (DHS): U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE). The two DHS immigration components most involved with the matters discussed in this handbook are USCIS and ICE. USCIS is responsible for most documentation of alien employment authorization, for Form I-9, and for the E-Verify employment eligibility verification program. ICE is responsible for enforcement of the penalty provisions of section 274A of the INA and for other immigration enforcement within the United States.

Under the Homeland Security Act, the U. S. Department of Justice (DOJ) retained certain important responsibilities related to Form I-9 as well. In particular, the Immigrant and Employee Rights Section (IER) in the Department of Justice’s Civil Rights Division is responsible for enforcement of the anti-discrimination provision in section 274B of the INA, while the Executive Office for Immigration Review (EOIR) is responsible for the administrative adjudication of cases under sections 274A, 274B, and 274C (civil document fraud) of the INA.

Part Two

Completing Form I-9

You must complete Form I-9 each time you hire any person to perform labor or services in the United States in return for wages or other remuneration. Remuneration is anything of value given in exchange for labor or services, including food and lodging. The requirement to complete Form I-9 applies to new employees hired after Nov. 6, 1986. This requirement does not apply to employees hired on or before Nov. 6, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times.

Ensure that the employee completes Section 1 of Form I-9 at the time of hire. "Hire" means the beginning of employment in exchange for wages or other remuneration. The time of hire is noted on the form as the first day of employment. Employees may complete Section 1 before the time of hire, but no earlier than acceptance of the job offer. Review the employee's document(s) and fully complete Section 2 within three business days of the hire. For example, if the employee begins employment on Monday, you must complete Section 2 by Thursday.

If you hire a person for fewer than three business days, Sections 1 and 2 must be fully completed at the time of hire – in other words, by the first day employment for pay.

Do not complete a Form I-9 for employees who are:

1. Hired on or before Nov. 6, 1986, (or on or before Nov. 27, 2007 if employment is in the Commonwealth of the Northern Mariana Islands (CNMI)) who are continuing in their employment and have a reasonable expectation of employment at all times;
2. Employed for casual domestic work in a private home on a sporadic, irregular or intermittent basis;
3. Independent contractors;
4. Employed by a contractor providing contract services (such as employee leasing or temporary agencies) and are providing labor to you; or
5. Not physically working on U.S. soil.

NOTE: You cannot hire an individual who you know is not authorized to work in the United States.

Completing Section 1

Have the employee complete Section 1 at the time of hire (by the first day of their employment for pay) by filling in the correct information and signing and dating the form. If the employee enters the information by hand, ensure that the employee prints the information clearly.

A preparer and/or translator may help an employee complete Form I-9. The preparer and/or translator must read the form to the employee, assist them in completing Section 1, and have the employee sign or mark the form where appropriate. The preparer and/or translator must then complete the Preparer and/or Translator Certification block. If the employee used multiple preparers or translator, each subsequent preparer and/or translator must complete a separate Preparer/Translator Certification block on a Form I-9 Supplement and attach the Supplement to the employee's form.

You are responsible for reviewing and ensuring that your employee fully and properly completes Section 1.

NOTE: Employees may voluntarily provide their Social Security numbers on Form I-9 unless you participate in the E-Verify program. Employees must provide E-Verify employers with their Social Security numbers. Employees who can satisfy Form I-9 requirements may work while awaiting their Social Security numbers.

You may not ask employees to provide you a specific document with their Social Security number on it. To do so may constitute unlawful discrimination. For more information on E-Verify, see Part Six. For more information on unlawful discrimination, see Part Four. Providing an e-mail address or telephone number in Section 1 is voluntary.

Section 1. Employee Information and Attestation <i>(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)</i>					
1	Last Name (Family Name) Washington	First Name (Given Name) George	Middle Initial A	Other Last Names Used (if any) N/A	
2	Address (Street Number and Name) 123 Star Spangled Way	Apt. Number 1	City or Town Westmoreland	State VA	ZIP Code 20002
3	Date of Birth (mm/dd/yyyy) 02/02/1982	U.S. Social Security Number 123 - 45 - 6789	Employee's E-mail Address gWASHINGTON@email.com	Employee's Telephone Number 202-123-4567	
4	<p>I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.</p> <p>I attest, under penalty of perjury, that I am (check one of the following boxes):</p> <p><input checked="" type="checkbox"/> 1. A citizen of the United States</p> <p><input type="checkbox"/> 2. A noncitizen national of the United States <i>(See instructions)</i></p> <p><input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): _____</p> <p><input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): _____ Some aliens may write "N/A" in the expiration date field. <i>(See instructions)</i></p> <p><i>Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</i></p> <p>1. Alien Registration Number/USCIS Number: _____ OR</p> <p>2. Form I-94 Admission Number: _____ OR</p> <p>3. Foreign Passport Number: _____ Country of Issuance: _____</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-left: auto;"> QR Code - Section 1 Do Not Write In This Space </div>				
	Signature of Employee <i>George Washington</i>		Today's Date (mm/dd/yyyy) 01/22/2017		
5	<p>Preparer and/or Translator Certification (check one):</p> <p><input type="checkbox"/> I did not use a preparer or translator. <input checked="" type="checkbox"/> A preparer(s) and/or translator(s) assisted the employee in completing Section 1. <i>(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)</i></p> <p>I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.</p>				
	Signature of Preparer or Translator <i>Abigail Adams</i>		Today's Date (mm/dd/yyyy) 01/22/2017		
6	Last Name (Family Name) Adams	First Name (Given Name) Abigail			
	Address (Street Number and Name) 123 American Way	City or Town Weymouth	State MA	ZIP Code 20001	

Figure 1: Completing Section 1: Employee Information and Attestation

- 1 Have the employee enter their full legal name and other last names that they have used in the past or present (such as a maiden name) if any.
- Have employees with two last names (family names) include both in the Last Name field. Employees who hyphenate their last names should include the hyphen (-) between the names. Employees with only one name should enter it in the Last Name field and enter "Unknown" in the First Name field. "Unknown" may not be entered in both the Last Name and the First Name fields.
 - Employees with two first names (given names) should include both in the First Name field. Employees who hyphenate their first name should include the hyphen (-) between the names.
 - Have the employee enter their middle initial in the Middle Initial Field. Enter "N/A" if the employee does not have a middle initial.

- Have the employee enter their maiden name or any other legal last name they may have used in the Other Last Names Used field. Enter “N/A” if the employee has not used other last names.

2 The employee should enter their home address, apt number, city or town, state and ZIP Code. Employees who have no Apt. Number should enter “N/A” in that field. Employees who do not have a street address should enter a description of the location of their residence, such as “Two miles south of I-81, near the water tower.”

3 Employees should enter their date of birth as a two-digit month, two-digit day, and four-digit year: (mm/dd/yyyy) in this field. For example January 8, 1980 should be entered as 01/08/1980. Employees may voluntarily provide a Social Security number unless the employer participates in E-Verify. If the employer participates in E-Verify and:

- The employee has been issued a Social Security number, they must provide it on Form I-9; or
- The employee has applied for, but has not yet received the Social Security number, have the employee leave this field blank. Employees who can satisfy Form I-9 requirements may work while awaiting their Social Security numbers.

It is optional for the employee to provide an email address and telephone number in Section 1. If the employee chooses to provide an email address, it should be entered in the name@site.domain format. Employees who do not wish to enter an e-mail address or telephone number should enter “N/A” in these fields.

4 Have the employee read the warning and attest to their citizenship or immigration status by checking one of the following boxes provided on the form:

- **A citizen of the United States**
- **A noncitizen national of the United States:** An individual born in American Samoa, certain former citizens of the former Trust Territory of the Pacific Islands, and certain children of noncitizen nationals born abroad.
- **A lawful permanent resident:** An individual who is not a U.S. citizen and who resides in the United States under legally recognized and lawfully recorded permanent residence as an immigrant. This term includes conditional residents. Asylees and refugees should not select this status, but should instead select “An alien authorized to work” below. Employees who select this box should enter their seven to nine-digit Alien Registration Number (A-Number) or USCIS Number in the space provided. The USCIS Number is the same as the A-Number without the “A” prefix.
- **An alien authorized to work:** An individual who is not a citizen or national of the United States, or a lawful permanent resident, but is authorized to work in the United States. For example, asylees, refugees, and certain citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau should select this status.

5 Have the employee sign and date the form, entering the date in Section 1 as a two-digit month, two-digit day, and four-digit year (mm/dd/yyyy).

6 If the employee used a preparer and/or translator to complete the form, that person must certify that they assisted the employee by completing the Preparer and/or Translator Certification block. If the employee did not use a preparer and/or translator, have the employee check the box marked “I did not use a preparer or translator.” If the employee used one or multiple preparers or translators and is completing the paper Form I-9, print out the Form I-9 Supplement, Section 1 Preparer and/or Translator Certification. If the employee used one or multiple preparers and/or translators and is completing Form I-9 using a computer, check the second box marked “A preparer(s) and/or translator(s) assisted the employee in completing Section 1” and select the number of preparers or translators the employee used in the drop down box next to “How Many?”

Failure to Complete Section 1

You must ensure that all parts of Form I-9 are properly completed; otherwise, you may be subject to penalties under federal law. Section 1 must be completed no later than the end of the employee's first day of employment. You may not ask an individual who has not accepted a job offer to complete Section 1. Before completing Section 2, you should review Section 1 to ensure the employee completed it properly. If you find any errors in Section 1, have the employee make any necessary corrections and initial and date them.

Completing Section 2

Within three business days of the date employment begins, the employee must present to you an original document or documents that show their identity and employment authorization. For example, if an employee begins employment on Monday, you must review the employee's documentation and complete Section 2 on or before Thursday of that week. However, if you hire an individual for less than three business days, you must complete Section 2 no later than the end of the first day of employment. The employee must be allowed to choose which document(s) they will present from the Form I-9 Lists of Acceptable Documents. You cannot specify which document(s) an employee will present from the list.

Physically examine each original document the employee presents to determine if the document reasonably appears to be genuine and relates to the person presenting it. Make sure the person who examines the documents is the same person who attests and signs Section 2.

The employee must be physically present with the document examiner. Examine one selection from List A or a combination of one selection from List B and one

selection from List C. If an employee presents a List A document, do not ask or require the employee to present List B or List C documents. If an employee presents List B and List C documents, do not ask or require the employee to present a List A document.

You must accept any document(s) from the Lists of Acceptable Documents that reasonably appear on their face to be genuine and relate to the person presenting them. You may not specify which document(s) the employee must present. Enter the document title, issuing authority, number, and expiration date (if any) in Section 2 from original documents supplied by employee. If you choose to make copies of the documents, do so for all employees, regardless of national origin or citizenship status, or you may be in violation of anti-discrimination laws. Return the original documents to your employee.

Fill in the date employment begins and information in the certification block. Sign and date Form I-9.

NOTE: If you participate in E-Verify, you may only accept List B documents that bear a photograph. For more information, visit uscis.gov/e-verify.

You may designate or contract with someone such as a personnel officer, foreman, agent, or anyone else acting on your behalf, including a notary public, to complete Section 2. Note that anyone else who completes Form I-9 on your behalf must carry out full Form I-9 responsibilities. It is not acceptable for the designated person to physically examine the employee's employment authorization and identity documents, and leave Section 2 for you to complete. You are liable for any violations in connection with the form or the verification process, including any violations of the employer sanctions laws committed by the person designated to act on your behalf.

The “Additional Information” space is for Form I-9 notes, such as:

- Notations that describe special circumstances such as employment authorization extensions for F-1 OPT STEM students, CAP-GAP, H-1B and H-2A employees continuing employment with the same employer or changing employers, and TPS, AC-21, 240-day, 180-day, and 120-day work authorization extensions, as required
- Information from additional documents that F-1 or J-1 nonimmigrant employees may present including the Student and Exchange Visitor (SEVIS) number and the program end date from Forms I-20, Certificate of Eligibility for Nonimmigrant Student Status, or DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status, as required
- Employee termination dates and form retention dates
- E-Verify case verification number, which may also be entered in the margin or attached as a separate sheet per E-Verify requirements and your chosen business process
- Discrepancies that E-Verify employers must notate when participating in the IMAGE program
- Any other comments or notations necessary for the employer’s business process

- 3 Enter the first day of employment for wages or other remuneration (such as date of hire) in the space for “The employee’s first day of employment (mm/dd/yyyy).” Recruiters and referrers for a fee do not enter the employee’s first day of employment.

Staffing agencies may choose to use either the date an employee is assigned to their first job or the date the new employee is entered into the assignment pool as the first day of employment.

- 4 Employer or authorized representative attests to physically examining the documents provided by completing the Last Name, First Name, Employer’s Business or Organization Name and signing and dating the signature and date fields.

- 5 Enter the business’s street address, city or town, state and ZIP code.

Sometimes, you must accept a receipt in lieu of a List A, List B, or a List C document if the employee presents one. New employees who choose to present a receipt(s) must do so within three business days of their first day of employment. Employees who choose to present a receipt for reverification must present it by the date their employment authorization expires. Receipts are not acceptable if employment lasts less than three business days.

Table 1 on the following page provides a list of acceptable receipts an employee can present. If an employee presents a receipt for the application to replace a lost, stolen or damaged document, the employee must present the replacement document to you within 90 days from the first day of work for pay, or in the case of reverification, within 90 days from the date

the employee’s employment authorization expired. Enter the word “Receipt” followed by the title of the document in Section 2 under the list that relates to the receipt. When completing the form using a computer, scroll down in the appropriate list to select the receipt presented. See Table 1 below for more information.

When your employee presents the original replacement document, cross out the word “Receipt,” then enter the information from the new document into Section 2. Other receipts may be valid for longer or shorter periods. This includes the arrival portion of Form I-94/I-94A, Arrival Departure Record, containing a temporary I-551 stamp and a photograph of the individual. This receipt is valid until the expiration date of the temporary I-551 stamp or one year from the date of admission, if there is no expiration date.

Table 1: Receipts

Receipt	Who may present this receipt?	Is this receipt proof of employment authorization and/or identity?	How long is this receipt valid?	What must the employee present at the end of the receipt validity period?
A receipt for a replacement of a lost, stolen, or damaged document	All employees	A receipt fulfills the verification requirements of the document for which the receipt was issued (can be List A, List B, or List C).	90 days from date of hire or, for reverification, 90 days from the date employment authorization expires.	The actual document for which the receipt was issued.
The arrival portion of the Form I-94 or I-94A containing a Temporary I-551 stamp and photograph	Lawful permanent residents	Employment authorization and identity (List A).	Until the expiration date of the Temporary I-551 stamp, or if no expiration date, one year from date of admission.	The actual Form I-551 (Permanent Resident Card, or “Green Card”).
The departure portion of Form I-94 or I-94A with an unexpired refugee admission stamp	Refugees	Employment authorization and identity (List A).	90 days from date of hire or, for reverification, 90 days from the date employment authorization expires.	An unexpired EAD (Form I-766) or a combination of a valid List B document and an unrestricted Social Security card.

Minors (Individuals under Age 18)

If a person under the age of 18 is unable to present an identity document from List B, they may establish identity by completing Form I-9 as shown below. The minor must still provide a document from List C to establish work authorization.

If the minor's employer participates in E-Verify, the minor must present a List B identity document with a photograph.

Section 1. Employee Information and Attestation <i>(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)</i>				
Last Name (Family Name) Adams		First Name (Given Name) John		Middle Initial A
Other Last Names Used (if any) N/A				
Address (Street Number and Name) 123 2nd Street		Apt. Number 1	City or Town Braintree	State MA
ZIP Code 20002				
Date of Birth (mm/dd/yyyy) 10/30/1984	U.S. Social Security Number 123 - 45 - 6789	Employee's E-mail Address jadams@email.com		Employee's Telephone Number 202-111-2222
<p>I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.</p> <p>I attest, under penalty of perjury, that I am (check one of the following boxes):</p> <p><input checked="" type="checkbox"/> 1. A citizen of the United States</p> <p><input type="checkbox"/> 2. A noncitizen national of the United States <i>(See instructions)</i></p> <p><input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): _____</p> <p><input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): _____ Some aliens may write "N/A" in the expiration date field. <i>(See instructions)</i></p> <p><i>Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</i></p> <p>1. Alien Registration Number/USCIS Number: _____ OR</p> <p>2. Form I-94 Admission Number: _____ OR</p> <p>3. Foreign Passport Number: _____</p> <p>Country of Issuance: _____</p>				
<p>Signature of Employee <i>Individual Under Age 18</i></p>				<p>Today's Date (mm/dd/yyyy) 01/22/2017</p>
<p>Preparer and/or Translator Certification (check one):</p> <p><input type="checkbox"/> I did not use a preparer or translator. <input checked="" type="checkbox"/> A preparer(s) and/or translator(s) assisted the employee in completing Section 1. <i>(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)</i></p> <p>I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.</p>				
<p>Signature of Preparer or Translator <i>Martha Washington</i></p>			<p>Today's Date (mm/dd/yyyy) 01/22/2017</p>	
Last Name (Family Name) Washington		First Name (Given Name) Martha		
Address (Street Number and Name) 123 1st Street		City or Town Charles City	State VA	ZIP Code 20001

Figure 3: Completing Section 1 of Form I-9 for minors without List B documents

- 1 The minor's parent or legal guardian completes Section 1 and enters "Individual under age 18" in the signature block.
- 2 The parent or legal guardian completes the Preparer and/or Translator Certification block.

Section 2. Employer or Authorized Representative Review and Verification					
<i>(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")</i>					
Employee Info from Section 1		Last Name (Family Name) Washington	First Name (Given Name) Martha	M.I. D	Citizenship/Immigration Status 1
List A Identity and Employment Authorization		OR	List B Identity	AND	List C Employment Authorization
Document Title		Document Title Individual Under Age 18	Document Title Social Security Card		
Issuing Authority		Issuing Authority	Issuing Authority Social Security Administration		
Document Number		Document Number	Document Number 123-45-6789		
Expiration Date (if any)(mm/dd/yyyy)		Expiration Date (if any)(mm/dd/yyyy)	Expiration Date (if any)(mm/dd/yyyy) N/A		
Document Title		Additional Information		QR Code - Sections 2 & 3 Do Not Write In This Space	
Issuing Authority					
Document Number					
Expiration Date (if any)(mm/dd/yyyy)					
Document Title					
Issuing Authority					
Document Number					
Expiration Date (if any)(mm/dd/yyyy)					
Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.					
The employee's first day of employment (mm/dd/yyyy): <u>01/22/17</u> (See instructions for exemptions)					
Signature of Employer or Authorized Representative <i>John Adams</i>		Today's Date(mm/dd/yyyy) 01/22/2017	Title of Employer or Authorized Representative HR Supervisor		
Last Name of Employer or Authorized Representative Adams		First Name of Employer or Authorized Representative John	Employer's Business or Organization Name Bald Eagle Flags Inc.		
Employer's Business or Organization Address (Street Number and Name) 50 States Road			City or Town Braintree	State MA	ZIP Code 20001

Figure 4: Completing Section 2 of Form I-9 for minors without List B documents

- 1 At the top of Section 2, enter the employee's last name, first name, and middle initial exactly as this information was entered in Section 1. Enter the number that correlates with the citizenship or immigration status box selected for the employee in Section 1.
- 2 Enter "Individual under age 18" under List B and enter the List C document the minor presents. Enter the document title, issuing authority, document number, and the expiration date from the original List C document.
- 3 Enter the date employment began.
- 4 The employer or authorized representative attests to physically examining the documents provided by completing the Last Name, First Name, their Employer's Business or Organization Name and signing and dating the signature and date fields.
- 5 Enter the business's street address, city or town, state and ZIP code.

Employees with Disabilities (Special Placement)

Individuals who have a physical or mental impairment which substantially limits one or more of their major life activities and who are placed in jobs by a nonprofit organization, association or as part of a rehabilitation program may establish identity under List B by using

procedures similar to those used by individuals under 18 years of age who are unable to produce a List B identity document and otherwise qualify to use these procedures. The individual will still be required to present an employment authorization document from List C. If the employer participates in E-Verify, the individual's List B identity document must contain a photograph. Complete Form I-9 as shown below.

Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)					
Last Name (Family Name) Jefferson		First Name (Given Name) Thomas		Middle Initial A	Other Last Names Used (if any) N/A
Address (Street Number and Name) 123 Bald Eagle Circle			Apt. Number 2	City or Town Shadwell	State VA ZIP Code 20001
Date of Birth (mm/dd/yyyy) 04/13/1983	U.S. Social Security Number 1 2 3 - 4 5 - 6 7 8 9		Employee's E-mail Address tjefferson@email.com		Employee's Telephone Number 202-222-1111
<p>I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.</p> <p>I attest, under penalty of perjury, that I am (check one of the following boxes):</p> <p><input checked="" type="checkbox"/> 1. A citizen of the United States</p> <p><input type="checkbox"/> 2. A noncitizen national of the United States (See instructions)</p> <p><input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): _____</p> <p><input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): _____ Some aliens may write "N/A" in the expiration date field. (See instructions)</p> <p>Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</p> <p>1. Alien Registration Number/USCIS Number: _____ OR 2. Form I-94 Admission Number: _____ OR 3. Foreign Passport Number: _____ Country of Issuance: _____</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-left: auto;"> <p>QR Code - Section 1 Do Not Write In This Space</p> </div>					
<p>1 Signature of Employee <i>Special Placement</i></p>			<p>Today's Date (mm/dd/yyyy) 01/22/2017</p>		
<p>Preparer and/or Translator Certification (check one):</p> <p><input type="checkbox"/> I did not use a preparer or translator. <input checked="" type="checkbox"/> A preparer(s) and/or translator(s) assisted the employee in completing Section 1. (Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)</p> <p>I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.</p>					
<p>2 Signature of Preparer or Translator <i>Martha Washington</i></p>			<p>Today's Date (mm/dd/yyyy) 01/22/2017</p>		
Last Name (Family Name) Washington		First Name (Given Name) Martha			
Address (Street Number and Name) 123 American Flag Blvd			City or Town Chestnut Grove	State VA	ZIP Code 20002

Figure 5: Completing Section 1 of Form I-9 for employees with disabilities (special placement)

- 1** The representative of the nonprofit organization, association, rehabilitation program, parent or legal guardian of an individual with a disability completes Section 1 and enters, "Special Placement" in the Signature of Employee field and dates the form.
- 2** The representative, parent or legal guardian completes the Preparer and/or Translator Certification block.

Section 2. Employer or Authorized Representative Review and Verification					
<i>(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")</i>					
1	Employee Info from Section 1	Last Name (Family Name) Jefferson	First Name (Given Name) Thomas	M.I. A	Citizenship/Immigration Status 1
List A Identity and Employment Authorization		OR	List B Identity	AND	List C Employment Authorization
2	Document Title		Document Title Special Placement		Document Title Social Security Card
	Issuing Authority		Issuing Authority		Issuing Authority Social Security Administration
	Document Number		Document Number		Document Number 123-45-6789
	Expiration Date (if any)(mm/dd/yyyy)		Expiration Date (if any)(mm/dd/yyyy)		Expiration Date (if any)(mm/dd/yyyy) N/A
	Document Title	Additional Information		QR Code - Sections 2 & 3 Do Not Write In This Space	
	Issuing Authority				
	Document Number				
	Expiration Date (if any)(mm/dd/yyyy)				
	Document Title				
	Issuing Authority				
	Document Number				
	Expiration Date (if any)(mm/dd/yyyy)				
Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.					
3	The employee's first day of employment (mm/dd/yyyy): 01/22/2017 (See instructions for exemptions)				
4	Signature of Employer or Authorized Representative <i>Abigail Adams</i>		Today's Date(mm/dd/yyyy) 01/22/2017	Title of Employer or Authorized Representative HR Chief	
	Last Name of Employer or Authorized Representative Adams	First Name of Employer or Authorized Representative Abigail		Employer's Business or Organization Name Bald Eagle Flags Inc.	
5	Employer's Business or Organization Address (Street Number and Name) 1 We The People Way		City or Town Weymouth	State MA	ZIP Code 20001

Figure 6: Completing Section 2 of Form I-9 for employees with disabilities (special placement)

- 1 At the top of Section 2, enter the employee's last name, first name and middle initial exactly as this information was entered in Section 1. Enter the number that correlates with the citizenship or immigration status box selected for the employee in Section 1.
- 2 Enter "Special Placement" under List B and enter information about the List C document that the employee with a disability presents.
- 3 Enter the date employment began.
- 4 The employer or authorized representative attests to physically examining the documents provided by completing the Last Name, First Name, Employer's Business or Organization Name and signing and dating the signature and date fields.
- 5 Enter the business's street address, city or town, state and ZIP code.

Future Expiration Dates

Future expiration dates may appear on the employment authorization documents of individuals, including, among others, lawful permanent residents, asylees and refugees. USCIS includes expiration dates on some documents issued to individuals with permanent employment authorization. The existence of a future expiration date:

1. Does not preclude continuous employment authorization;
2. Does not mean that subsequent employment authorization will not be granted; and
3. Should not be considered in determining whether the individual is qualified for a particular position.

Considering a future employment authorization expiration date in determining whether an individual is qualified for a particular job may constitute employment discrimination. For more information on unlawful discrimination, see Part Four. However, as described below, you may need to reverify the employee's authorization to work when certain List A or List C documents expire. For example, the Employment Authorization Document (Form I-766) must be reverified on or before the expiration date.

Automatic Extensions of Employment Authorization Documents (EAD) in Certain Circumstances

Automatic Extensions Based on Timely Employment Authorization Document (Form I-766) Renewal Application

Foreign nationals in certain employment eligibility categories who file an EAD renewal application may

receive automatic extensions of their expiring EAD for up to 180 days. The extension begins on the date the EAD expires and continues for up to 180 days unless the renewal application is denied. An automatic EAD extension depends on these requirements:

1. The employee must have timely filed an application to renew their EAD before it expires (except certain employees granted Temporary Protected Status (TPS)), and the application remains pending;
2. The eligibility category on the face of the EAD is the same eligibility category code on the Form I-797C, Notice of Action, the employee received from USCIS indicating USCIS's receipt of their renewal application (except employees with TPS who may have a C19/A12 combination); and
3. The eligibility category is listed on uscis.gov as eligible for EAD automatic extensions. As of the date of publication of this M-274, Handbook for Employers, eligibility categories codes for a 180-day automatic extension are A03, A05, A07, A08, A10, C08, C09, C10, C16, C20, C22, C24, C31 and A12 or C19.

The employee's expired EAD in combination with the Form I-797C Notice of Action showing that the EAD renewal application was timely filed and showing the same qualifying eligibility category as that on the expired EAD is an acceptable document for Form I-9. This document combination is considered an unexpired Employment Authorization Document (Form I-766) under List A.

To find the eligibility category code on your employee's employment authorization document, see Figure 7 below:

Figure 7: Auto-Extended Employment Authorization Documents

Finding the Category Notation and Expiration Date on an EAD



The category notation appears on the face of the Employment Authorization Document (Form I-766) under "Category."

The expiration date appears on the face of the Employment Authorization Document (I-766) to the right of "Card Expires."

Automatic EAD Extensions for TPS Beneficiaries

Beneficiaries of TPS may present an Employment Authorization Document (Form I-766) that is expired on its face with a C19 eligibility code but a Form I-797C Notice of Action indicating the eligibility category code A12. Therefore, just for TPS beneficiaries, the eligibility category codes do not need to be the same, but can be either C19 or A12.

TPS beneficiaries may receive an automatic extension of their Employment Authorization Document (Form I-766) if they file their renewal application in accordance with the applicable *Federal Register* notice regarding procedures for renewing TPS-related employment documentation, which may or may not require that the application be filed prior to the expiration of the Employment Authorization Document (Form I-766).

TPS beneficiaries have other ways to receive an automatic extension of their EAD. In many circumstances, their EAD may be automatically extended under a notice published in the *Federal Register* based on an extension of the TPS country designation. In these instances, DHS will inform the public in the *Federal Register* notice that TPS status and employment authorization for TPS beneficiaries are being extended. You may not require employees to prove they are a national of a country that has been designated for TPS.

Guidance on Completing Form I-9

For a current employee, update Section 2 of Form I-9 with the new expiration date as follows:

1. Draw a line through the old expiration date and write the new expiration date in the margin of Section 2;
2. Write EAD EXT in Section 2;
3. Initial and date the correction.

The new expiration date to enter is the date 180 days from the date the card expires, which is the date on the face of the expired EAD. Employees whose employment authorization was automatically extended along with their EAD (such as adjustment of status applicants, but not asylees who are employment authorized incident to status) should cross out the “employment authorized until” date in Section 1, write the date that is 180 days from the date their current EAD expires, and initial and date the change.

New employees may present the expired EAD and Form I-797C Notice of Action indicating USCIS’s receipt of

the employee’s timely filed renewal application. When completing Section 1, the employee should enter the date that is 180 days from the “card expires” date of their expired EAD in the “employment authorized until mm/dd/yyyy” field.

When completing Section 2, the employer should enter into the Expiration Date field the date the automatic extension period expires, not the expiration date on the face of the expired EAD. The automatic extension expiration date is the date 180 days from the “card expires” date on the EAD. Note that this expiration date may be cut short if the employee’s renewal application is denied before the 180-day period expires. The employer should enter the receipt number from the I-797C Notice of Action as the document number on Form I-9.

Reverification

Reverification is required when the employee’s automatic extension ends, no later than 180-days after the expiration date of the Employment Authorization Document (Form I-766). Reverification can also be done before the end of the 180-day extended time period, upon receipt of any document that shows current employment authorization, such as any document from List A or List C.

Reverifying Employment Authorization for Current Employees

When an employee’s EAD (Employment Authorization Document, Form I-766) expires, you must reverify their employment authorization no later than the date employment authorization expires. You may use Section 3 of Form I-9, or if Section 3 has already been used for a previous reverification or update, then use Section 3 of a new Form I-9. If you complete Form I-9 on paper, you must:

1. Enter the last name, first name and middle initial from the original Form I-9 at the top of Section 2 leaving the Citizenship/Immigration Status field blank (only for those using Section 3 of a new form);
2. Complete Section 3;
3. Keep only the second page of the new Form I-9 with the original.

When completing the Form I-9 using a computer, you must enter the last name, first name and middle initial from the original Form I-9 at the top of Section 3.

When you complete Section 3 on a computer and print, Sections 2 and 3 will appear on the same page. The employee must present a document that shows current employment authorization such as any document from List A or List C, including an unrestricted Social Security card. You cannot continue to employ an employee who cannot provide you with proof of current employment authorization.

NOTE: Reverification is never required for U.S. citizens and noncitizen nationals. Do not reverify the following documents after they expire: U.S. passports, U.S. passport cards, Alien Registration Receipt Cards/Permanent Resident Cards (Form I-551), and List B documents.

Employees whose immigration status, employment authorization or employment authorization documents expire should file the necessary application or petition well in advance to ensure they maintain continuous employment authorization and valid employment authorization documents. Certain employees, such as H-1B or L-1 nonimmigrants who are authorized to work for a specific employer and on whose behalf an application for an extension of stay has been filed may continue working for the same employer for up to 240 days from the date the authorized period of stay expires. See *Completing Form I-9 for Nonimmigrant Categories* below.

Employees in certain categories may be eligible for a 180-day automatic extension of their expired EAD. See *Automatic Extensions of Employment Authorization Document in Certain Circumstances* above for more information, including eligible categories.

NOTE: You must reverify an employee's employment authorization on Form I-9 no later than the date that the employee's employment authorization or EAD expires, whichever is sooner.

Evidence of Status for Certain Categories **Lawful Permanent Residents (LPR)**

Employees must be allowed to choose which document(s) they will present from the Lists of Acceptable Documents. You cannot specify which document(s) an employee must present. Employees who attest to being an LPR in Section 1 may choose to present a List A document (such as a Permanent Resident Card,

Form I-551) or a List B and List C document combination (such as a state-issued driver's license and unrestricted Social Security card). If the employee presents a List A document, do not ask or require the employee to present List B and List C documents. If an employee presents List B and List C documents, do not ask or require the employee to present a List A document.

There are different versions of Form I-551, Permanent Resident Card. Some Permanent Resident Cards may contain no expiration date, a 10-year expiration date, or a two-year expiration date. Cards that expire in 10 years or have no expiration date are issued to LPRs with no conditions on their status. All Permanent Resident Cards, whether they have an expiration date or no expiration date, are List A documents that should not be reverified.

LPRs and conditional residents may be issued temporary I-551 documents. These documents are acceptable for Form I-9 as follows:

1. The combination of an expired Permanent Resident Card and a Form I-797, Notice of Action, that indicates that the card is valid for an additional year, is an acceptable List C evidence of employment authorization for one year as indicated on Form I-797. At the end of the one-year period, you must reverify.
2. Reverification is necessary if an employee presents a foreign passport with either a temporary I-551 stamp or I-551 printed notation on a machine-readable immigrant visa (MRIV) when the stamp or MRIV expires, or one year after the admission date if the stamp or MRIV does not contain an expiration date.

MRIVs are usually issued with the following language on the visa: "UPON ENDORSEMENT SERVES AS TEMPORARY I-551 EVIDENCING PERMANENT RESIDENCE FOR 1 YEAR." The one year time period begins on the date of admission. If, in the rare instance, an immigrant visa is issued without the statement "FOR 1 YEAR," employers should treat the MRIV as evidence of permanent residence status for one year from the date of admission.

If the stamp in the passport is endorsed "CR-1" and is near but not on the immigrant visa, it is still a valid endorsement.

3. If an employee presents the arrival portion of Form I-94/Form I-94A Arrival Departure Record containing an unexpired temporary I-551 stamp and a photograph of the individual, this combination of documents is an acceptable List A receipt for the Permanent Resident Card. The employee must present their Permanent Resident Card to the employer no later than when the stamp expires, or one year after the issuance date of the Form I-94 if the stamp does not contain an expiration date.

NOTE: If USCIS has approved the employee's application to adjust status to that of a lawful permanent resident, but the employee has not yet received their initial Permanent Resident Card, they can get temporary evidence of permanent resident status at a local USCIS field office.

Native Americans

A Native American tribal document establishes both identity and employment authorization on Form I-9. If an employee presents a Native American tribal document, you do not need any other documents from the employee to complete Section 2. To be acceptable for Form I-9 purposes, a Native American tribal document must be issued by a tribe recognized by the U.S. federal government. Members of federally recognized tribes who are LPRs, aliens authorized to work, and noncitizen nationals may have a Native American tribal document issued by such tribes. Because federal recognition of tribes can change over time, you may check the Bureau of Indian Affairs website at bia.gov to determine if the tribe is federally recognized.

The following documents are not considered Native American tribal documents for Form I-9 purposes and cannot be used for either List B or List C:

- A tribal membership document issued by a Canadian First Nation such as a Canadian Indian tribe, rather than a U.S. Indian tribe, including a U.S. Indian tribe that grants membership and issues tribal membership documents to Canadian nationals
- A Certificate of Indian Status (commonly referred to as an "INAC card") issued by Aboriginal Affairs and Northern Development Canada (formerly known as Indian and Northern Affairs Canada, or "INAC")

While individuals who possess such documents might possibly qualify for employment authorization under

INA § 289 (and, if applicable, 8 CFR § 289.2), their tribal membership cards issued by a Canadian First Nation, or INAC cards issued by the Government of Canada, cannot, by themselves, establish work authorization.

For E-Verify Employers:

Section 403 of the E-Verify authorizing statute requires that all List B documents must contain a photograph. This includes Native American tribal documents presented as a List B document. If the employee's Native American tribal document does not contain a photograph, you should request the employee provide a List B document with a photograph. The Native American tribal document is acceptable as the employee's List C document. Your employee may also choose to provide a List A document in place of a List B and List C document.

Refugees and Asylees

Refugees and asylees are authorized to work because of their immigration status. When completing Form I-9, the refugee or asylee should indicate "alien authorized to work" in Section 1 of Form I-9. Since refugees and asylees are authorized to work indefinitely because of their immigration status, a refugee or asylee should enter "N/A" on the expiration date line in Section 1.

Many refugees and asylees may choose to present an unexpired EAD (Employment Authorization Document, Form I-766). However, neither refugees nor asylees are required to present an EAD to meet Form I-9 requirements. They may present other acceptable documents for Form I-9, such as Form I-94/Form I-94A indicating refugee or asylee status. They may also present List B and List C combinations, such as a state-issued driver's license and an unrestricted Social Security card.

In addition, refugees and asylees may present an expired EAD with Form I-797C Notice of Action from USCIS for Form I-765, Application for Employment Authorization if Form I-797C lists the same employment authorization category as the expired EAD. This combination is considered an unexpired employment authorization and identity document (List A) and is valid for up to 180 days after the "card expires" date on the face of the EAD.

See *Automatic Extensions of Employment Authorization Document in Certain Circumstances* for more information about eligible categories and Form I-9 completion instructions for an employee who is a beneficiary of an employment authorization document auto-extension.

NOTE: The Social Security Administration issues unrestricted Social Security cards to refugees and asylees. These are List C documents for Form I-9 purposes and are not subject to reverification. Application procedures for Social Security cards can be found on the Social Security Administration's site at ssa.gov.

Refugees

Upon admission to the United States, DHS provides refugees with electronic or paper Forms I-94 (Arrival-Departure Record) that proves their status and employment authorization. The departure portion of a Form I-94 containing an unexpired refugee admission stamp or a Form I-94 computer-generated printout with an admission class of "RE" is an acceptable receipt establishing both employment authorization and identity for 90 days. During this time USCIS should be processing an EAD for the refugee.

At the end of the 90-day receipt period, the refugee must present either an EAD or a document from List B, such as a state-issued driver's license, with a document from List C, such as an unrestricted Social Security card.

Refugees may also present an expired EAD in combination with an I-797C Notice of Action from USCIS indicating timely filing of the renewal application for an EAD (provided the I-797C indicates the same employment authorization category as the expired employment authorization document). This combination is considered an unexpired employment authorization and identity document (List A) and is valid for up to 180 days after the "card expires" date on the face of the EAD.

See *Automatic Extensions of Employment Authorization Document in Certain Circumstances* for more information about eligible categories and Form I-9 completion instructions for an employee who is a beneficiary of a 180-day employment authorization document auto-extension.

Asylees

After being granted asylum in the United States, DHS issues asylees paper Forms I-94 that evidence their status and employment authorization with a stamp or notation indicating asylee status, such as "asylum granted indefinitely" or the appropriate provision of law (8 CFR 274a.12(a)(5) or INA 208). This document is considered a List C document that demonstrates employment authorization in the United States and does not expire. Asylees who choose to present this document will need to present a List B identity document, such as a state-issued driver's license or identification card.

USCIS also issues asylees EADs which are acceptable as List A documents. Decisions from immigration judges or the Board of Immigration Appeals (BIA) granting asylum are not acceptable List C documents because they are not issued by DHS.

Asylees may also present an expired Employment Authorization Document (Form I-766) in combination with an I-797C Notice of Action from USCIS indicating timely filing of the renewal application for an EAD (provided the I-797C lists the same employment authorization category as the expired EAD). This combination is considered an unexpired employment authorization and identity document (List A) and is valid for up to 180 days after the 'card expires' date on the face of the EAD.

See *Automatic Extensions of Employment Authorization Document in Certain Circumstances* for more information about eligible categories and Form I-9 completion instructions for employees who are beneficiaries of an employment authorization document auto-extension.

Exchange Visitors and Students

Each year, thousands of exchange visitors, international students, and their dependents come to the United States to study and work.

Exchange Visitors (J-1s)

The Department of State (DOS) administers the exchange visitor program and designates the sponsors. Responsible officers within the program issue Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status. Exchange visitors come to the United States for a specific period of time to participate in a particular program or activity as described on their Form DS-2019. Only J-1 exchange visitors may use Form DS-2019 for employment when such employment is part of their

program. Currently, DOS designates public and private entities to act as exchange sponsors for the following programs:

Table 2: Exchange Visitor Programs

EXCHANGE VISITOR PROGRAMS
SECONDARY STUDENT
ASSOCIATE DEGREE STUDENT
BACHELOR'S DEGREE STUDENT
MASTER'S DEGREE STUDENT
DOCTORAL STUDENT
NON-DEGREE STUDENT
STUDENT INTERN
TRAINEE (SPECIALTY)
TRAINEE (NON-SPECIALTY)
TEACHER
PROFESSOR
INTERNATIONAL VISITOR
PHYSICIAN
GOVERNMENT VISITOR
RESEARCH SCHOLAR
SHORT-TERM SCHOLAR
SPECIALIST
CAMP COUNSELOR
SUMMER WORK/TRAVEL
AU PAIR AND EDUCARE
TRAINEE
INTERN
Pilot Programs
Summer Work/Travel: Australia
Summer Work/Travel: New Zealand
Intern Work/Travel: Ireland
WEST (Work/English Study/Travel): South Korea

High school or secondary school students and international visitors are not authorized to work.

Other J-1 students may be authorized by their responsible officer for part-time on-campus employment according to the terms of a scholarship, fellowship or assistantship, or off-campus employment based on serious, urgent, unforeseen economic circumstances. J-1 students may also be authorized for a maximum of 18 months (or, for Ph.D. students, a maximum of 36 months) of practical training during or immediately after their studies. J-1 practical training includes paid off-campus employment and/or unpaid internships that are part of the student's program of study. Their responsible officer must authorize employment in writing for practical training. Special rules apply to student interns.

Employment for other J-1 exchange visitors is sometimes job- and site-specific or limited to a few months.

For more information about these categories and their employment authorization, contact the responsible officer whose name and telephone number are on Form DS-2019 or the DOS website at exchanges.state.gov.

USICS does not issue EADs (Employment Authorization Documents, Forms I-766) to J-1 exchange visitors. However, they are issued several other documents that, in combination are List A documents and are evidence of employment authorization for J-1 exchange visitors who are not students:

- Unexpired foreign passport;
- Form I-94/Form I-94A Arrival Departure Record indicating J-1 non-immigrant status; and
- Form DS-2019 with the responsible officer's endorsement.

J-1 students may present the documents above if they also have a letter from the responsible officer authorizing employment.

Or

List B and List C documents.

For example, the J-1 student could present a List B document (such as a state driver's license) and under List C #8, a Form I-94 in combination with Form DS-2019 and a letter from a responsible officer. The documents by themselves do not qualify.

Some exchange visitors may extend their status. If you have questions about any exchange visitor's continued employment authorization, contact the responsible officer whose name and telephone number are on Form DS-2019.

Dependents of a J-1 exchange visitor are classified as J-2 nonimmigrants and are only authorized to work if USCIS has issued them an EAD. A J-2 nonimmigrant's foreign passport and Form I-94/Form I-94A are not evidence of identity and employment authorization for purposes of Form I-9.

F-1 and M-1 Nonimmigrant Students

Foreign students pursuing academic studies and/or language training programs are classified as F-1 nonimmigrants, while foreign students pursuing nonacademic or vocational studies are classified as M-1 nonimmigrants. Designated school officials (DSO) at certified schools issue Form I-20, Certificate of Eligibility for Nonimmigrant (F-1)/(M-1) Students.

F-1 nonimmigrant foreign students may be eligible to work under certain conditions. There are several types of employment authorization for students, including:

- On-campus employment,
- Curricular practical training,
- Off-campus employment based on severe economic hardship,
- Employment sponsored by an international organization, and
- Optional practical training.

Foreign students in F-1 nonimmigrant status may work on campus without the approval of a DSO or USCIS.

On-campus employment is authorized until the student completes their course of study. The F-1 nonimmigrant admission notation on Form I-94/I-94A Arrival Departure Record usually states "D/S" indicating duration of status. The F-1 student's Form I-20 bears the latest date they can complete their studies. Enter this date in Section 1 as the date employment authorization expires.

To complete Section 2, the combination of the F-1 student's unexpired foreign passport and Form I-94/94A Arrival Departure Record indicating F-1 nonimmigrant status is a List A document for on-campus employment. Employers are not required to record information from

the student's Form I-20 in Section 2.

Foreign students in F-1 nonimmigrant status may work:

- On the school's premises, including on-location commercial firms that provide services for students on campus, such as the school bookstore or cafeteria
- At an off-campus location that is educationally affiliated with the school.

Employment that does not provide direct services to students is not on-campus employment. For example, an on-campus commercial firm, such as a construction company that builds a school building, does not provide direct student services. Guidelines for on-campus employment are available at ice.gov/sevis/employment.

On-campus employment is limited to 20 hours a week when school is in session. An exception to this limitation applies in cases of emergent circumstances announced by DHS in a notice published in the Federal Register.

Curricular practical training (CPT) allows students to accept paid alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. The curricular practical training program must be an integral part of the curriculum of the student's degree program. The DSO must authorize CPT on the student's Form I-20. The employment end date shown in the employment authorization section of the Form I-20 should be entered in Section 1 as the date employment authorization expires.

The following documents establish the student's identity and employment authorization for Form I-9 purposes and should be entered in Section 2:

List A documents include the combination of:

- Unexpired foreign passport;
- Form I-20 with the DSO endorsement for employment; and
- Form I-94/Form I-94A indicating F-1 nonimmigrant status.

Or

List B and List C documents. The F-1 student could present a List B document (such as a state driver's

license) and under List C #8, Form I-94 indicating F-1 nonimmigrant status with a properly endorsed Form I-20. The documents by themselves do not qualify.

An acceptable Form I-20 for CPT must have all employment authorization fields completed. These fields include employment status, employment type, start and end date of employment, and the employer's name and location.

For the other types of employment available to certain foreign students, such as optional practical training (OPT) employment authorization, STEM (Science, Technology, Engineering, and Mathematics), OPT extension, or off-campus employment based on severe economic hardship, employment authorization must be granted by USCIS and will be evidenced by an EAD issued by USCIS.

Border commuter students who enter the United States as an F-1 nonimmigrant may only work as part of their curricular practical training or post-completion optional practical training (OPT).

M-1 students may only accept employment if it is part of a practical training program after completion of their course of study. USCIS will issue the EAD with authorization granted for a maximum period of six months of full-time practical training, depending on the length of the students' full-time study.

Dependents of F-1 and M-1 foreign students have an F-2 or M-2 status and are not eligible for employment authorization.

Optional Practical Training (OPT) for F-1 Students—EAD Required

OPT provides practical training experience that directly relates to an F-1 student's major area of study. An F-1 student authorized for OPT may work up to 20 hours per week while school is in session and full-time (20 or more hours per week) when school is not in session. After completing their course of study, students also may participate in OPT for work experience. USCIS may authorize an F-1 student to have up to 12 months of OPT upon completion of their degree program. Certain F-1 students may be eligible for an extension of their OPT, as described below.

The designated school official must update Form I-20 to indicate OPT recommendation or approval. OPT

employment must be directly related to the student's field of study noted on Form I-20. The student must obtain an EAD from USCIS before they are authorized to work. The student may not begin employment until the date indicated on the EAD.

The EAD establishes the student's identity and employment authorization for Form I-9 purposes and the employer should record the card number and expiration date under List A in Section 2. When the student's EAD expires, the employer must reverify the student's employment authorization in Section 3.

F-1 STEM OPT Extension

An F-1 student who received a bachelor's, master's, or doctoral degree in science, technology, engineering, or mathematics (STEM) from an accredited and SEVP-certified school may apply for a 24-month extension of their optional practical training (OPT). Employment must be directly related to the student's major area of study. The employer must be enrolled in and be in good standing with E-Verify. The E-Verify company identification number is required for the student to apply to USCIS for the STEM extension using Form I-765, Application for Employment Authorization. A STEM student may change employers or work at a different hiring site for the same employer, but the new employer or new hiring site must be enrolled in and be in good standing with E-Verify before the student begins their STEM OPT with the new employer or hiring site.

The EAD issued to the F-1 STEM OPT student states "STU: STEM OPT ONLY." The following documents establish a student's identity and employment authorization for Form I-9:

- Unexpired EAD or
- For certain instances where students have timely-filed Forms I-765 pending, an expired EAD presented with Form I-20 endorsed by the student's designated school official recommending a STEM extension.

If the student presents an expired EAD and an endorsed Form I-20 recommending a STEM extension, the employer should enter the following information under

List A in Section 2:

- EAD document title;
- EAD document number;
- Date the EAD expired in the expiration date space; and
- “180-day ext.” in the Additional Information field.

The expired EAD with an endorsed Form I-20 is acceptable until USCIS makes a decision on the student’s application, but for not more than 180 days from the date the student’s initial OPT EAD expires. Employment authorization must be reverified after 180 days from the date the EAD expires to continue employment.

Acceptable Forms I-20 for STEM OPT students must have all Employment Authorization fields completed. These fields include: employment status, employment type, start and end date of employment, and the employer’s name and location.

Employers have specific responsibilities when providing practical training opportunities to STEM OPT students. Some employer responsibilities include:

- Enrolling in E-Verify and remaining in good standing before employing an F-1 STEM OPT student.
- Implementing a formal training plan to augment the student’s academic learning through practical experience.
- Completing the employer’s portion and certifying Form I-983, Training Plan for STEM OPT Students.
- Reporting to the DSO and updating Form I-983 if there are any changes to or material deviations from the student’s formal training plan.
- Reporting to the DSO when a student’s employment is terminated for any reason before the end of the authorized extension period.

Additional employer requirements and information on an employer’s responsibilities are available at studyinthestates.dhs.gov.

Cap-Gap

F-1 students who seek to change to H-1B status may be eligible for a cap-gap extension of status and employment authorization through September 30 of the calendar year for which the H-1B petition is being filed, but only if the H-1B status will begin on October 1. The term cap-gap refers to the period between the time

a nonimmigrant’s F-1 student status would ordinarily end and their H-1B status begins. If you employ an F-1 nonimmigrant student in OPT and you timely filed an H-1B petition for that student, they may be able to continue working beyond the expiration date on their OPT EAD (Employment Authorization Document, Form I-766) while waiting for the start date of an approved or pending H-1B petition.

There are two types of cap-gap extensions:

1. Extensions of F-1 status only (without OPT).

If a student is in F-1 status when you file an H-1B petition with an October 1 start date, but the student is not currently participating in OPT, the student will receive a cap-gap extension of their F-1 status, but will not be authorized to work until USCIS approves the H-1B petition and the H-1B status begins on October 1.

2. Extensions of F-1 status and OPT.

If a student is in F-1 status when you file an H-1B petition with an October 1 start date and is currently participating in post-completion OPT, they will receive an automatic cap-gap extension of both their F-1 student status and their authorized period of post-completion OPT. If the H-1B petition is selected and remains pending or is approved, the student will remain authorized to work as an F-1 student with OPT through September 30.

The following documents establish identity and employment authorization for Form I-9 purposes for students who have had their status and employment authorization extended through cap-gap:

- Expired EAD; and,
- Form I-20 endorsed by the student’s DSO recommending the cap-gap extension.

These documents are acceptable through September 30 of the year in which the employer filed the H-1B petition unless the H-1B petition is rejected, not selected, denied, revoked or withdrawn before October 1.

To verify employment authorization in Section 2 or conduct reverification in Section 3 during the cap-gap

period, the employer should record:

- EAD document title;
- EAD document number;
- Date the EAD expired in the expiration date space; and “CAP-GAP” in the Additional Information field.

H-1B Specialty Occupations

U.S. businesses use the H-1B program to temporarily employ foreign workers in a specialty occupation that requires theoretical or technical expertise in a certain field, such as science, engineering or computer programming. As a U.S. employer, you may submit a Form I-129, Petition for a Nonimmigrant Worker, to USCIS for nonimmigrants who have certain skills, provided they meet established requirements. You must also include an approved Form ETA 9035, Labor Condition Application, with Form I-129 and other documentation.

A Newly Hired Employee With H-1B Classification

If USCIS approves your petition, you will receive Form I-797, Notice of Approval, from USCIS, which indicates that the foreign worker has been approved for H-1B classification. Once your employee begins working for you, you must both complete Form I-9.

H-1B Extensions

H-1B petitions can be approved for an initial period of up to three years, after which USCIS may grant extensions for up to an additional three years. Certain H-1B workers may be extended beyond the six-year ceiling.

For more information about H-1B extensions, please visit uscis.gov.

H-1B Continuing Employment With the Same Employer

For an H-1B worker to continue working for you beyond the expiration of their current H-1B status as indicated by the expiration date on their Form I-797 Notice of Action approval notice, you must request an extension of stay before their H-1B petition expires. Upon submitting a timely filed Form I-129 petition seeking an extension of the employee’s status, the employee is authorized to continue to work while the petition is being processed for a period not to exceed 240 days, or until USCIS denies your petition, whichever comes first. When your

employee’s work authorization expires, you should write “240-Day Ext.” and enter the date you submitted Form I-129 to USCIS in the Additional Information field in Section 2. Also your employee may update Section 1 by crossing out the expiration date of their employment authorization noted in the attestation. Write in the new date that the automatic extension of employment authorization ends. Initial and date this update in the margin of Section 1. You must reverify the employee’s employment authorization in Section 3 once you receive a decision on the H-1B petition or by the end of the 240-day period, whichever comes first.

See *Completing Form I-9 for Nonimmigrant Categories when Requesting Extensions of Stay* below.

H-1B employees changing employers (porting)

An H-1B employee who is changing H-1B employers may begin working for the new employer as soon as the employer files a Form I-129 petition on behalf of the employee. The new petition must not be frivolous and must have been filed prior to the expiration of the individual’s period of authorized stay. The new employer must complete a new Form I-9 for this newly hired employee. An H-1B employee’s Form I-94/Form I-94A issued for employment with the previous employer, along with their foreign passport, would qualify as a List A document. The new employer should write “AC-21” and enter the date Form I-129 was submitted to USCIS in the Additional Information field in Section 2.

See *Completing Form I-9 for Nonimmigrant Categories When Requesting Extensions of Stay* below.

For more information about employing H-1B workers, please visit uscis.gov.

Please go to uscis.gov/files/form/i-129instr.pdf for further instructions on filing extensions of stay.

H-2A Temporary Agricultural Worker Program

The H-2A program allows U.S. employers to bring foreign workers to the United States to fill temporary or seasonal agricultural jobs usually lasting no longer than one year, for which U.S. workers are not available. Before filing a petition with USCIS, you must first obtain a valid temporary labor certification for H-2A workers from the U.S. Department of Labor (DOL). Once certified, you can include multiple workers when filing a Form I-129, Petition for a Nonimmigrant Worker, to request

H-2A classification from USCIS. If USCIS approves your petition, you can hire the foreign workers for which you petitioned to fill the temporary job.

A Newly Hired Employee in H-2A Classification

Complete a new Form I-9 for this employee as you would for any employee. An H-2A worker's unexpired Form I-94/Form I-94A Arrival Departure Record indicating their H-2A status, along with their foreign passport, would qualify as a List A document. Enter these documents in Section 2 under List A, along with the expiration date of your employee's H-2A status found on their Form I-94/ Form I-94A.

H-2A Continuing Employment With the Same Employer

You may extend your worker's H-2A status in increments of no longer than one year by timely filing with USCIS a new Form I-129 petition on behalf of the worker. In most cases, a new temporary labor certification from DOL is required before you can file Form I-129. To avoid disruption of employment, you should file a petition to extend the employee's employment authorization status well before it expires. When your H-2A employee's work authorization expires, you must update their Form I-9 by writing "240-Day Ext." and entering the date you submitted Form I-129 to USCIS in the Additional Information box in Section 2. USCIS may extend a single H-2A petition for up to two weeks without an additional approved labor certification under certain circumstances. In such a case, write "two-week extension" and enter the date you submitted Form I-129 to USCIS in the Additional Information box in Section 2.

Upon submitting a new Form I-129 petition to USCIS, the H-2A worker is authorized to continue to work while the petition is being processed for a period not to exceed 240 days, or until USCIS denies your petition, whichever comes first. You must reverify the employee's employment authorization in Section 3 once you receive a decision on the H-2A petition or by the end of the 240-day period, whichever comes first.

See *Completing Form I-9 for Nonimmigrant Categories When Requesting Extensions of Stay* below.

H-2A Extension With a New Employer

In most cases, an H-2A worker may not begin working for

a new employer until USCIS approves the petition requesting a change of employer. However, if you have enrolled in E-Verify, you may employ an H-2A worker as soon as you submit a new Form I-129 petition on their behalf. The H-2A worker is authorized to work while USCIS processes the petition for a period not to exceed 120 days, or until USCIS denies your petition, whichever comes first. You and your newly hired employee must complete Form I-9. The H-2A employee's unexpired Form I-94/Form I-94A indicating their H-2A status, along with their foreign passport, would qualify as a List A document. You should write "120-Day Ext." and enter the date you submitted Form I-129 to USCIS in the Additional Information box in Section 2.

If USCIS denies the new petition before the 120-day period expires, USCIS will automatically terminate the H-2A worker's employment authorization within 15 calendar days of its denial decision. USCIS may also terminate employment authorization if you fail to remain an E-Verify employer in good standing. You must reverify the employee's employment authorization in Section 3 either by the end of the 120-day period or once you receive a decision on the H-2A petition, whichever comes first. If your petition is denied, count 15 days from the date of the denial for the date the employee's employment authorization expires.

See *Completing Form I-9 for Nonimmigrant Categories When Requesting Extensions of Stay* below.

For more information about employing H-2A workers, please visit uscis.gov.

Extensions of Stay for Other Nonimmigrant Categories

Other nonimmigrants also may receive extensions of stay if their employers file Form I-129, Petition for a Nonimmigrant Worker (or Form I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker for CW-nonimmigrants) with USCIS on their behalf, before their status expires. These employees are authorized to continue working while their petitions are being processed for a period not to exceed 240 days, or until USCIS denies the petition, whichever comes first. On these employees' Form I-9, write "240-day Ext." and the date Form I-129 was submitted to USCIS in the Additional Information box in Section 2. Also your employee may update Section 1 by crossing out the expiration date of their employment authorization noted in the attestation. Write in the new date that the automatic extension of

employment authorization ends. Initial and date this update in the margin of Section 1.

Other categories include: CW-1 H-1B, H-1B1, H-2A, H-2B, H-3, L-1, O-1, O-2, P-1, P-2, P-3, R-1, TN, A3, E-1, E-2, E-3, G-5, and I. Note that individuals in the E-1 and E-2 categories are employers.

Go to uscis.gov/files/form/i-129instr.pdf for further instructions on filing extensions of stay

See *Completing Form I-9 for Nonimmigrant Categories when Requesting Extensions of Stay* below.

For more information about employing other types of nonimmigrant workers, please visit uscis.gov.

Completing Form I-9 for Nonimmigrant Categories When Requesting Extensions of Stay

You must submit a timely filed Form I-129 (or I-129CW) petition to USCIS to request an extension of stay on behalf of an employee in one of the above categories. While the petition is pending, your existing employee is authorized to continue to work for you for 120 days, 240 days, or longer, depending on the category petitioned for, or until USCIS denies your petition, whichever comes first.

Keep the following documents with the employee's existing Form I-9 to show that you filed for an extension of stay on their behalf:

- A copy of the new Form I-129 or Form I-129CW;
- Proof of payment for filing a new Form I-129 or Form I-129CW
- Evidence that you mailed the new Form I-129 or Form I-129CW to USCIS.

After submitting Form I-129 or Form I-129CW to USCIS, you will receive a notice from USCIS acknowledging that your petition is pending; you should keep it with the employee's Form I-9. After you receive the I-797C, Notice of Action, which bears the amount of the filing fee submitted and acknowledges USCIS' receipt of the new Form I-129 petition, it is not necessary to maintain a copy of the Form I-129 application, proof of payment, and mailing receipt for Form I-9 purposes. You should retain the I-797C, Notice of Action to show that you filed

for an extension of stay on the employee's behalf.

If USCIS approves the application/petition for an extension of stay you will receive a Form I-797A, Notice of Action which includes an expiration date and an attached Form I-94A, Arrival/Departure Record. Enter the document title, number and expiration date listed on the notice in Section 3 of Form I-9. You must give your employee the Form I-94A, which is evidence of their employment-authorized nonimmigrant status.

Automatic Extensions of EADs in Certain Circumstances

DHS regulations provide for up to 180-day automatic extension of employment authorization of certain Form I-766, Employment Authorization Documents (EADs) for some individuals who have timely filed a renewal of their EADs. For qualifying individuals except TPS beneficiaries, timely filed means prior to the expiration of their most recent EAD. For TPS beneficiaries, timely filed means filing as instructed by the Federal Register notice announcing the TPS registration procedures. The TPS automatic extension will terminate early if USCIS denies the renewal application before the 180th day is reached. DHS has determined that 15 employment eligible categories can receive automatic renewal of their EADs. The following are the eligible category codes which can be found on the face of the expired EAD: A03, A05, A07, A08, A10, A12 or C19, C08, C09, C10, C16, C20, C22, C24, C31. For an updated list, visit uscis.gov. See Figure 7 for more information.

Documentation for Form I-9

The combination of an expired EAD noting a qualifying eligibility code, in combination with a Form I-797C, Notice of Action acknowledging receipt of an EAD renewal application and noting an eligibility category code that matches the expired EAD constitutes an unexpired EAD (Form I-766) under List A of Form I-9, so long as Form I-797C indicates that the renewal application was filed before the previous EAD expired. However, for TPS beneficiaries, the codes will be A-12 or C-19, but do not have to match, and the employer can consider the renewal application as timely filed if it was filed by the dates stated in the current TPS Federal Register notice applicable for the individual's country.

Therefore, when the expiration date on the automatically extended EAD is reached, the employer and the employee should update the employment authorization/EAD

expiration dates stated on the previously completed Form I-9 (Sections 1 and 2 or 3) to reflect the extended expiration date while the renewal application is pending. Cross out the dates and write the last date of the automatic extension period and initial the correction. Note that the employee must make and initial the correction if one is necessary in Section 1, while the employer must make and initial the correction in Section 2 or 3. If the automatically extended EAD is being presented by the individual to a new employer, then the expiration dates to be entered on Form I-9 should be the last date of the automatic extension. If the employer is retaining copies of documents with Form I-9, then both the expired EAD and the Form I-797 should be retained. At the end of the expiration date, you must reverify by updating Section 3. See Figure 7 for more information.

Failure of an Employee to Present Acceptable Documents

You may terminate an employee who fails to produce an acceptable document or documents, or an acceptable receipt for a document within three business days of the date employment begins. Employers that fail to properly complete Form I-9 risk violating section 274A of the INA and are subject to civil money penalties.

Completing Section 3 Recording Changes of Name and Other Identity Information for Current Employees

In the case of a rehire or reverification, if an employee has had a legal change of name, such as following marriage, record the employee's legal change of name in the space provided in Section 3. If you learn of a legal change of name at a time other than during a rehire or reverification, USCIS recommends that you update Form I-9 with the new name in the space provided in Section 3 of Form I-9 so that you maintain correct information on the form. In either situation, you should take steps to be reasonably assured of the employee's identity and the veracity of the employee's claim of a legal name change. These steps may include asking the employee for the reason for the legal change of name and to provide documentation of a legal change of name to keep with Form I-9, so that your actions are well-documented in the event of a Form I-9 inspection.

You may encounter situations other than a legal change of name where an employee informs you (or you have reason to believe) that their identity is different from that previously used to complete the Form I-9. For example, an employee may have been working under a false identity, has subsequently obtained a work authorized immigration

status in their true identity, and wishes to regularize their employment records. In that case you should complete a new Form I-9. Write the original hire date in Section 2 and attach the new Form I-9 to the previously completed Form I-9 and include a written explanation.

In cases where an employee has worked for you using a false identity but is currently authorized to work, the I-9 rules do not require termination of employment.

In addition, there may be other laws, contractual obligations, or company policies that you should consider before taking action. For example, the INA prohibits discrimination based on citizenship or immigration status (see Part Four of this handbook for more information).

For E-Verify employers:

- USCIS recommends that you encourage your employees to record their legal name change with the Social Security Administration to avoid mismatches in E-Verify.
- If you complete a new Form I-9 in a new identity situation as described above, e.g., where a name change to Form I-9 information is not a legal name change, you should confirm the new Form I-9 information through E-Verify. If you do complete a new Form I-9, you should not create a new E-Verify case.
- Federal contractors who are subject to the Federal Acquisition Regulation (FAR) E-Verify clause and who choose to verify existing employees by updating an already-completed Form I-9 are subject to special rules regarding when they must complete a new Form I-9. Employers who choose to update Form I-9 for existing employees must complete a new Form I-9 when an employee changes their name. For more information, see the E-Verify Supplemental Guide for Federal Contractors, at uscis.gov/e-verify.

Note: If you need to reverify the employment authorization of an existing employee who completed an earlier version of Form I-9, the employee must provide any document(s) they choose from the Lists of Acceptable Documents for the most current versions of the Form I-9. Enter the new document(s) in Section 3 of the current version of Form I-9 and keep it with the previously completed Form I-9. Visit I-9 Central at uscis.gov/i-9-central for the most current version of the Form I-9.

Reverifying or Updating Employment Authorization for Rehired Employees

If you rehire an employee within three years from the date their Form I-9 was previously completed, you may either rely on the employee's previously executed Form I-9 or complete a new one. If you choose to rely on a previously completed Form I-9, follow these guidelines:

- If the employee remains employment authorized as indicated on the previous Form I-9, the employee does not need to provide any additional documentation. In Section 3, provide the employee's rehire date, any name changes, and sign and date the form.
- If the previous Form I-9 indicates that the employee's employment authorization has expired, you must reverify employment authorization in Section 3 in addition to providing the rehire date. If the previously executed Form I-9 is not the current version of the form, you must complete Section 3 on the current version of the form.
- If you already used Section 3 of the employee's previously completed Form I-9, but are rehiring the employee within three years of the original execution of Form I-9, you may complete Section 3 on a new Form I-9 and attach it to the previously completed form.

Employees rehired after three years of the original completion of the Form I-9 must complete a new Form

I-9.

To reverify:

1. Enter the date of rehire in Block B of Section 3.
2. Enter the document title, number and expiration date (if any) of the document(s) the employee presents in Block C of Section 3.
3. Sign and date Section 3.
4. If you choose to use a new Form I-9, enter the employee's name at the top of page 2 of a new Form I-9 and complete Section 3 of the new Form I-9, retaining the new form with the previously completed one.
5. You must reverify the employee on a new Form I-9 if the version of the form you used for the previous verification is no longer valid. Please check uscis.gov/i-9 for the current Form I-9.

Updating an employee's name is optional. To update:

1. Enter the date of rehire in Block B and the employee's new name, if applicable, in Block A of Section 3.
2. Sign and date Section 3.
3. If you are updating on a new Form I-9, enter the employee's name at the top of page 2 and use Section 3 of the new Form I-9 to update. Keep the new Form I-9 with the previously completed one.

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)			
A. New Name (if applicable)			B. Date of Rehire (if applicable)
1	Last Name (Family Name) Madison	First Name (Given Name) James	Middle Initial A
			Date (mm/dd/yyyy) 01/22/2017 2
C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.			
3	Document Title EAD	Document Number ABC1234567890	Expiration Date (if any) (mm/dd/yyyy) 01/22/2019
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.			
4	Signature of Employer or Authorized Representative Dolley Todd	Today's Date (mm/dd/yyyy) 01/22/2017	Name of Employer or Authorized Representative Dolley Todd

Figure 8: Completing Section 3: Reverification and Rehires

- 1 Enter the employee's new name, if applicable, in block A.
- 2 Enter the employee's date of rehire, if applicable, in block B.
- 3 Enter the document title, number, and expiration date (if any) of document(s) presented in block C.
- 4 Sign and date Section 3.

Leaves of Absence, Layoffs, Corporate Mergers and Other Interruptions of Employment

You must complete a new Form I-9 when a hire takes place, unless you are rehiring an employee within three years of the date of their previous Form I-9. However, in certain situations, a hire is not considered to have taken place despite an interruption in employment. In case of an interruption in employment, you should determine whether the employee is continuing in their employment and has a reasonable expectation of employment at all times.

These situations constitute continuing employment:

- Approved paid or unpaid leave on account of study, illness or disability of a family member, illness or pregnancy, maternity or paternity leave, vacation, union business, or other temporary leave approved by the employer.
- Promotions, demotions or pay raises.
- Temporary layoff for lack of work.
- Strikes or labor disputes.
- Reinstatement after disciplinary suspension for wrongful termination found unjustified by any court, arbitrator or administrative body, or otherwise resolved through reinstatement or settlement.
- Transfer from one distinct unit of an employer to another distinct unit of the same employer; the employer may transfer the employee's Form I-9 to the receiving unit.
- Seasonal employment.
- Continuing employment with a related, successor or reorganized employer, provided that the employer obtains and maintains, from the previous employer, records and Form I-9 where applicable. A related, successor or reorganized employer includes:
 - The same employer at another location;
 - An employer who continues to employ any employee of another employer's workforce, where both employers belong to the same multi-employer association and the employee continues to work in the same bargaining unit under the same collective bargaining agreement. For these purposes, any agent designated to complete and maintain Form I-9 must enter the employee's date of hire and/or termination each time the employee is hired and/or terminated by an employer of the multi-employer association.

Employers who have acquired or merged with another company have two options:

- **Option A:** Treat all acquired employees as new hires and complete a new Form I-9 for every individual. Enter the effective date of acquisition or merger as the employee's first day of employment in Section 2 of the new Form I-9.

If you choose Option A, avoid engaging in discrimination by completing a new Form I-9 for all of your acquired employees, without regard to actual or perceived citizenship status or national origin.

- **Option B:** Treat all acquired individuals as employees who are continuing in their uninterrupted employment status and retain the previous owner's Form I-9 for each acquired employee. Note that you are liable for any errors or omissions on the previously completed Form I-9.

Employees hired on or before Nov. 6, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times are exempt from completing Form I-9 and cannot be verified in E-Verify. For help with making this determination, see 8 CFR 274a.2(b)(1)(viii) and 8 CFR 274a.7. If you determine that an employee hired on or before Nov. 6, 1986 is not continuing in their employment or does not have a reasonable expectation of employment at all times, the employee may be required to complete a Form I-9.

Federal contractors with the FAR E-Verify clause are subject to special rules regarding the verification of existing employees. For more information, see the *E-Verify Supplemental Guide for Federal Contractors* at uscis.gov/e-verify.

To determine whether an employee continuing in his or her employment had a reasonable expectation of employment at all times, consider several factors, including, but not limited to:

- The individual was employed on a regular and substantial basis. A determination of a regular and substantial basis is established by a comparison of other workers similarly employed by the employer.
- The individual complied with the employer's established and published policy regarding their absence.
- The employer's past history of recalling absent employees for employment indicates the likelihood

that the individual in question will resume employment with the employer within a reasonable time in the future.

- The former position held by the individual has not been taken permanently by another worker
- The individual has not sought or obtained benefits during their absence from employment with the employer that are inconsistent with an expectation of resuming employment within a reasonable time in the future.
- The financial condition of the employer indicates the ability of the employer to permit the individual in question to resume employment within a reasonable time in the future.
- The oral and/or written communication between employer, the employer's supervisory employees and the individual indicates that it is reasonably likely that the individual will resume employment within a reasonable time in the future.

Continue to maintain and store the previously completed Form I-9 as if there was no interruption in employment. Inspect the previously completed Form I-9 and, if necessary, update the form or conduct reverification.

If you determine that your employee was terminated and is now rehired, and the rehire occurs within three years from the date the original Form I-9 was completed, you have an option to complete a new form or rely on the original one.

Special Rules for Members of Employer Associations

Special rules apply for employers who are members of an association of two or more employers that have entered into a collective bargaining agreement with one or more employee organizations. An employer who is a member of the employer association will be deemed to have complied with the employment eligibility verification requirements for its employee if:

- The employee is a member of a collective-bargaining unit and is employed under a collective bargaining agreement between one or more employee organizations and an association of two or more employers by an employer that is a member of such association, and
- Another employer that is a member of the same employer association (or an agent of the employer association on behalf of the employer), has

previously complied with the employment eligibility verification requirements for this individual within three years (or, if less, the period of time that the individual is authorized to be employed in the United States).

Penalties for employing aliens knowing they are unauthorized to work in the United States still apply.

Special Rules for State Employment Agencies

A state employment agency, sometimes known as a state workforce agency, may choose to verify the employment authorization and identity of an individual it refers for employment on Form I-9. In such a case, the agency must issue a certification to you so that you receive it within 21 business days of the date the referred individual is hired. If an agency refers a potential employee to you with a job order, other appropriate referral form or telephonically authorized referral, and the agency sends you a certification within 21 business days of the referral, you do not have to check documents or complete a Form I-9 if you hire that person. Before receiving the certification, you should retain the job order, referral form or annotation reflecting the telephonically authorized referral as you would Form I-9. When you receive the certification, you must review it to ensure that it relates to the person hired and observe the person sign the certification. You must also retain the certification as you would a Form I-9 and make it available for inspection, if requested. Check with your state employment agency to see if it provides this service and become familiar with its certification document.

Correcting Form I-9

If the employer, recruiter, or referrer for a fee ("employer") discovers an error in Section 1 of an employee's Form I-9, the employer should bring itself into compliance immediately and ask the employee to correct the error. Employers and/or their authorized representative may only correct errors made in Section 2 or Section 3 of Form I-9.

To correct the form is to:

- Draw a line through the incorrect information;
- Enter the correct information;
- Initial and date the correction.

Correcting Section 1

If the employer and/or their authorized representative discover information has been omitted in Section 1, the

employer should ask the employee to enter the missing information. If the employee is remotely located, the employer should develop the appropriate business process to allow the employee to enter the missing information in Section 1.

When correcting Section 1, the employee should:

- Enter the omitted information;
- Initial and date near the newly entered information.

The employer should attach a written explanation of what happened.

If the employee's employment has terminated, the employer should attach a written explanation to the Form I-9 explaining the error and place in the employee's file.

Corrections by a Preparer/Translator Assisting with Section 1

Upon discovering an error, the preparer and/or translator should:

- Make the correction or help the employee make the correction by drawing a line through the incorrect information and entering the correct information;
- Have the employee initial and date the correction;
- Initial and date the correction if the preparer/translator makes the correction.

If the preparer and/or translator who helps with the correction completed the Preparer and/or Translator Certification block when the employee initially completed Form I-9, they should not complete the certification block again. If the preparer and/or translator did not previously complete the preparer and/or

translator certification block, they should

- Complete the certification block; or
- If the certification block was previously completed by a different preparer and/or translator, complete a new certification block.

Correcting Section 2 and Section 3

If the employer and/or their authorized representative discover information has been omitted in Section 2 or 3, the employer should enter the omitted information to the extent possible and initial and date in the same area. Also, it would be helpful to attach a written explanation of what happened to the Form I-9. If an employer failed to enter the date Section 2 and/or 3 was completed, the form should not be back dated. The employer should enter the current date and initial by the date field.

To correct multiple recording errors on the form, you may redo the section on a new Form I-9 and attach it to the old form. A new Form I-9 can be completed if major errors (such as entire sections were left blank or Section 2 was completed based on unacceptable documents) need to be corrected. A note should be attached to the employee's Form I-9 regarding the reason changes were made to an existing Form I-9 or a new Form I-9 was completed.

Do NOT conceal any changes made on the form. Doing so may lead to increased liability under federal immigration law.

If you have made changes on a Form I-9 using correction fluid, we recommend you attach a signed and dated note to the corrected Form I-9 explaining what happened. You can find guidance on making corrections to Form I-9 at uscis.gov/i-9-central.

Part Three

Photocopying and Retaining Form I-9

Employers must retain a Form I-9 for each person hired. This requirement applies from the date of hire, even if the employment ends shortly after hired, the hired employee never completes work for pay, or never finishes the Form I-9. Once the individual's employment has terminated, the employer must determine how long after termination the Form I-9 must be retained, either three years after the date of hire, or one year after the date employment is terminated, whichever is later. Form I-9 can be retained on paper, microform or electronically.

To store Form I-9 electronically, you may use any electronic recordkeeping, attestation, or retention

system that complies with DHS standards, including most commercially available off-the-shelf computer programs and commercial automated data processing systems. However, the system must not be subject to any agreement that would restrict access to and use of it by an agency of the United States. (See *Electronic Retention of Form I-9* on the next page for additional requirements.)

NOTE: Insufficient or incomplete documentation is a violation of section 274A (a)(1)(B) of the INA (8 CFR Part 274a.2(f)(2)).

1.	Enter date employee began work for pay: _____		
		Add three years to Line 1	A. _____
2.	Termination date: _____		
		Add one year to Line 2	B. _____
		Which date is later: A or B? Enter the later date here.	C. _____
			Store Form I-9 until this date.

Figure 9: Form I-9 Retention Calculator

Paper Retention of Form I-9

Form I-9 can be signed and stored in paper format with original handwritten signatures. Simply photocopy or print a blank Form I-9. Ensure the employee receives the instructions for completing the form. When copying or printing the paper Form I-9, you may photocopy the two-sided form by making either double-sided or single-sided copies.

Only the pages of the Form I-9 on which you or the employee enter data must be retained. You may retain completed paper forms on-site or at an off-site storage facility for the required retention period, as long as you are able to present the Form I-9 within three days of an inspection request from DHS, the Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section

(IER), or U.S. Department of Labor (DOL) officers.

Microform Retention of Form I-9

You may retain copies of an original signed Form I-9 on microfilm or microfiche. Only the pages of the Form I-9 on which you or the employees enter data must be retained. To do so, you should:

1. Select film stock that will preserve the image and allow its access and use for the entire retention period, which could be upward of 20 years, depending on the employee and your business.
2. Use well-maintained equipment to create and view microfilms and microfiche that provides clear viewing, and can reproduce legible paper copies. DHS officers must have access to clear, readable documents should they need to inspect

your forms.

3. Place indexes either in the first frames of the first roll of film or in the last frames of the last roll of film of a series. For microfiche, place them in the last frames of the last microfiche or microfilm jacket of a series.

Electronic Retention of Form I-9

USCIS provides a Portable Document Format (.pdf) fillable-printable Form I-9 from its website, uscis.gov. In addition, you may generate and retain Form I-9 electronically as long as the employee receives instructions for completing the form and:

1. The resulting form is legible;
2. No change is made to the name, content, or sequence of the data elements and instructions;
3. No additional data elements or language are inserted; and
4. The standards specified in the regulations are met. (8 CFR Part 274a.2(e), (f), (g), (h) and (i) as applicable.)

You may use paper, electronic systems, or a combination of paper and electronic systems. You may complete or retain Form I-9 in an electronic generation or storage system that includes:

1. Reasonable controls to ensure the integrity, accuracy and reliability of the electronic generation or storage system;
2. Reasonable controls designed to prevent and detect the unauthorized or accidental creation of, addition to, alteration of, deletion of, or deterioration of an electronically completed or stored Form I-9, including the electronic signature, if used;
3. An inspection and quality assurance program that regularly evaluates the electronic generation or storage system, and includes periodic checks of electronically stored Form I-9, including the electronic signature, if used;
4. An indexing system that allows the identification and retrieval for viewing or reproducing of relevant documents and records maintained in an

electronic storage system; and

5. The ability to reproduce legible and readable paper copies.

If you choose to complete or retain Form I-9 electronically, you may use one or more electronic generation or storage systems, as long as any Form I-9 retained in the system remains fully accessible and meets the regulations. You may change electronic storage systems as long as the systems meet the performance requirement of the regulations. For each electronic generation or storage system used, you must maintain and make available upon request complete descriptions of:

1. The electronic generation and storage system, including all procedures relating to its use.
2. The indexing system that allows the identification and retrieval of relevant documents and records maintained in an electronic storage system. You are not required to maintain separate indexing databases for each system if comparable results can be achieved without separate indexing databases.

Only the pages of the Form I-9 on which you or the employee enter data must be retained.

Documentation of Electronic Storage Systems

If you choose to complete or retain Form I-9 electronically, you must maintain and make available upon request documentation of the business processes that:

1. Created the retained Form I-9,
2. Modify and maintain the retained Form I-9, and
3. Establish the authenticity and integrity of the forms, such as audit trails.

Electronic Signature of Form I-9

You may choose to complete a paper Form I-9 and scan and upload the original signed form to retain it electronically. Once you have securely stored Form I-9 in electronic format, you may destroy the original paper

Form I-9.

If you complete Form I-9 electronically using an electronic signature, your system for capturing electronic signatures must allow signatories to acknowledge that they read the attestation and attach the electronic signature to an electronically completed Form I-9. The system must also:

1. Affix the electronic signature at the time of the transaction;
2. Create and preserve a record verifying the identity of the person producing the signature; and
3. Upon request of the employee, provide a printed confirmation of the transaction to the person providing the signature.

Employers who complete Form I-9 electronically must attest to the required information in Section 2 of Form I-9. The system used to capture the electronic signature should include a method to acknowledge that the attestation to be signed has been read by the signatory.

NOTE: If you choose to use an electronic signature to complete Form I-9, but do not comply with these standards, DHS will determine that you have not properly completed Form I-9, in violation of section 274A(a)(1) B) of the INA (8 CFR Part 274a.2(b)(2)).

Security

If you retain Form I-9 electronically, you must implement an effective records security program that:

1. Ensures that only authorized personnel have access to electronic records;
2. Provides for backup and recovery of records to protect against information loss;
3. Ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of electronic records; and
4. Ensures that whenever an individual creates, completes, updates, modifies, alters, or corrects an electronic record, the system creates a secure and permanent record that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

NOTE: If your action or inaction results in the alteration, loss or erasure of electronic records, and you knew, or reasonably should have known, that the action or inaction could have that effect, then you are in violation of section

274A(b)(3) of the INA (8 CFR Part 274a.2(g)(2)).

Retaining Copies of Form I-9 Documentation

You may choose to copy or scan documents an employee presents when completing Form I-9, which you may retain with their Form I-9. Making photocopies of an employee's document(s) does not take the place of completing Form I-9. Even if you retain copies of documentation, you are still required to fully complete and retain Form I-9. If you choose to retain copies of an employee's documents, you must do so for all employees, regardless of actual or perceived national origin or citizenship status, or you may be in violation of anti-discrimination laws.

Copies or electronic images of presented documents must be retrievable consistent with DHS's standards on electronic retention, documentation, security, and electronic signatures for employers and employees, as specified in 8 CFR Part 274a.2(b)(3).

If you make copies or electronic images of the employee's documents, they must be either retained with the corresponding Form I-9 or stored with the employee's records in accordance with the standards for electronic records retention as specified in 8 CFR 274a.2(b)(3). However, if copies or electronic images of the employee's documents are made, they must be made available at the time of a Form I-9 inspection by DHS or another federal government agency.

Inspection

The INA specifically authorizes DHS, IER and DOL to inspect Form I-9, including any copies of employees' documents retained with the corresponding Form I-9. DHS, IER, and DOL provide employers a minimum of three days' notice before inspecting a retained Form I-9. The employer must make Form I-9 available upon request at the location where DHS, IER or DOL requests to see them. Form I-9 and supporting documentation may also be sent to the agency in electronic format or hard copy if requested.

If you store Form I-9 records at an off-site location, inform the inspecting officer of the location where you store them and make arrangements for the inspection. The inspecting officers may perform an inspection at an office of an authorized agency of the United States if previous arrangements are made. Recruiters or referrers for a fee who designate an employer to complete employment verification procedures may present photocopies or

printed electronic images of Form I-9 at an inspection. If you refuse or delay an inspection, you will be in violation of DHS retention requirements.

At the time of an inspection, you must:

1. Retrieve and reproduce only the Form I-9 electronically retained in the electronic storage system and supporting documentation specifically requested by the inspecting officer. Supporting documentation includes photocopies of Form I-9 documents stored with Form I-9 and associated audit trails that show the actions performed within or on the system during a given period of time.
2. Provide the inspecting officer with appropriate hardware and software, personnel, and documentation necessary to locate, retrieve, read, and reproduce any electronically stored Form I-9, any supporting documents, and their associated audit trails, reports, and other data used to maintain the authenticity, integrity, and reliability of the records.
3. Provide the inspecting officer, if requested, any reasonably available or obtainable electronic summary file(s), such as spreadsheets, containing all of the information fields on any electronically stored Form I-9.

NOTE: E-Verify employers should provide E-Verify Case Detail Pages in addition to Form I-9 when they receive a request for inspection.

Part Four

Unlawful Discrimination and Penalties for Prohibited Practices

Unlawful Discrimination

Discriminating in the Form I-9 and E-Verify verification processes can violate federal law. This section describes prohibited discrimination and how to prevent prohibited discrimination in verifying an individual's employment authorization.

Overview of Discrimination Laws

The anti-discrimination provision of the Immigration and Nationality Act (INA), as amended, prohibits four types of unlawful conduct:

1. Unfair documentary practices during the Form I-9 and E-Verify process);
2. Citizenship or immigration status discrimination;
3. National origin discrimination;
4. Retaliation or intimidation

The Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section (IER), enforces this law.

Title VII of the Civil Rights Act of 1964 (Title VII) and other federal laws prohibit employment discrimination based on race, color, national origin, religion, sex, age, disability and genetic information. The U.S. Equal Employment Opportunity Commission (EEOC) enforces these laws.

Types of Employment Discrimination Prohibited Under the INA

Unfair Documentary Practices

The INA prohibits discriminatory documentary practices related to verifying the employment authorization and identity of employees during the employment eligibility verification process (generally, the Form I-9 and E-Verify processes). Unfair documentary practices generally occur when employers treat individuals differently on the basis of national origin or citizenship or immigration status in the Form I-9 or E-Verify processes, or any other process

an employer may use that verifies employment eligibility. Unfair documentary practices can be broadly categorized into four types of conduct:

1. Requesting that an individual produce more or different documents than are required by Form I-9 to establish the individual's identity and employment authorization;
2. Requesting that individuals present a particular document, such as a "Green Card," to establish identity and/or employment authorization;
3. Rejecting documents that reasonably appear to be genuine and to relate to the individuals presenting them; and
4. Treating groups of individuals differently when verifying employment eligibility, such as requiring certain groups of individuals who look or sound "foreign" to present particular documents the employer does not require other individuals to present.

These practices may constitute unfair documentary practices if they are committed based on citizenship or immigration status, or national origin, and should be avoided when verifying employment authorization. All employment-authorized individuals are protected against this type of discrimination. The INA's provision against unfair documentary practices covers employers with four or more employees.

Citizenship Status Discrimination

Citizenship or immigration status discrimination occurs when an employer treats individuals differently based on their real or perceived citizenship or immigration status with respect to hiring, firing, recruitment, or referral for a fee. U.S. citizens, recent permanent residents, asylees, and refugees are protected from this type of discrimination. The INA's provision against citizenship or immigration status discrimination covers employers with four or more employees.

National Origin Discrimination

National origin discrimination under the INA occurs when an employer treats individuals differently based on their national origin with respect to hiring, firing, recruitment, or referral for a fee. An individual's national origin relates to the individual's place of birth, country of origin, ethnicity, ancestry, native language, accent, or the perception that they look or sound "foreign." The INA's national origin discrimination prohibition generally covers employers with more than three and less than 15 employees and covers all employment-authorized individuals. EEOC has jurisdiction over national origin claims involving employers with 15 or more employees, regardless of the work authorization status of the discrimination victims.

Retaliation

An employer or other covered entity cannot intimidate, threaten, coerce, or otherwise retaliate against an individual because the individual has filed an immigration-related employment discrimination charge or complaint; has testified or participated in any IER investigation, proceeding, or hearing; or otherwise asserts his, her, or other's rights under the INA's anti-discrimination provision.

Types of Discrimination Prohibited by Title VII and Other Federal Anti-discrimination Laws

As noted above, Title VII and other federal laws also prohibit employment discrimination on the basis of national origin, as well as race, color, religion, sex, age, disability and genetic information. These laws also protect workers from retaliation. EEOC has jurisdiction over employers that employ 15 or more employees for 20 or more weeks in the preceding or current calendar year, and prohibits discrimination in any aspect of employment, including: hiring and firing; compensation, assignment, or classification of employees; transfer, promotion, layoff, or recall; job advertisements; recruitment; testing; use of company facilities; training and apprenticeship programs; fringe benefits; pay, retirement plans, and leave; or other terms and conditions of employment.

IER and EEOC share jurisdiction over national origin discrimination charges. EEOC investigates national origin discrimination claims against employers with 15 or more employees, and IER investigates national origin discrimination claims against smaller employers with

more than three and less than 15 employees.

Avoiding Discrimination in Recruiting, Hiring, and the Form I-9 Process

In practice, you should treat individuals equally when recruiting and hiring, and when verifying employment authorization and identity during the Form I-9 process.

You should not:

1. Have different rules or requirements for individuals because of their national origin, citizenship, or immigration status. For example, you cannot demand that non-US citizens present DHS issued documents. Each individual must be allowed to choose the documents that they will present from the lists of acceptable Form I-9 documents. For example, both citizens and employment-authorized individuals may present a driver's license (List B) and an unrestricted Social Security card (List C) to establish identity and employment authorization. However, you must reject documents that do not reasonably appear to be genuine or to relate to the individual presenting them.
2. Request to see employment eligibility verification documents before hire and completion of Form I-9 because an individual looks or sounds "foreign," or because the individual states that they are not a U.S. citizen.
3. Refuse to accept a document, or refuse to hire an individual, because a document has a future expiration date.
4. Request specific documents from individuals to run an E-Verify case or based on an E-Verify tentative nonconfirmation.
5. Request that an individual run a Self Check case and/or present documents showing the individual cleared Self Check.
6. Request that an employee who presented an unexpired Permanent Resident Card present a new document when the Permanent Resident Card expires.
7. Request that, during reverification, an employee present a new unexpired Employment Authorization Document (Form I-766) if they presented one during initial verification. For

reverification, each employee must be free to choose to present any document either from List A or from List C.

8. Limit jobs to U.S. citizens unless U.S. citizenship is required for the specific position by law; regulation; executive order; or federal, state, or local government contract.

Employers Prohibited From Retaliating Against Employees

You cannot take retaliatory action against a person who has filed a charge of discrimination with IER or EEOC, was a witness or otherwise participated in the investigation or prosecution of a discrimination complaint, or otherwise asserts rights under the INA's anti-discrimination provision and/or Title VII. Such retaliatory action may constitute a violation of the INA's anti-discrimination provision, Title VII, and other federal anti-discrimination law. Retaliation violates federal law.

Procedures for Filing Charges of Employment Discrimination

IER

Discrimination charges may be filed by an individual, a person acting on behalf of such an individual, or a DHS officer who has reason to believe that discrimination has occurred.

Discrimination charges must be filed with IER within 180 days of the alleged discriminatory act.

Upon receipt of a complete discrimination charge, IER will notify you within 10 days that a charge has been filed against you and start its investigation. If you refuse to cooperate with IER's investigation, IER can obtain a subpoena to compel you to produce the information and documents requested or to appear for an investigative interview.

If IER has not filed a complaint with an administrative law judge within 120 days of receiving a charge of discrimination, it will notify the charging party (other than a DHS officer) of their right to file a complaint with an administrative law judge within 90 days after receiving the notice.

Additionally, IER may also file a complaint. If a complaint is filed, the administrative law judge will conduct a hearing and issue a decision. IER may also attempt to

settle a charge, or the parties may enter into a settlement agreement resolving the charge.

EEOC

A charge must be filed with EEOC within 180 days from the date of the alleged violation to protect the charging party's rights. This 180-day filing deadline is extended to 300 days if the charge also is covered by a state or local anti-discrimination law.

Penalties for Prohibited Practices

Unlawful Employment

Civil Penalties

DHS or an administrative law judge may impose penalties if an investigation reveals that you knowingly hired or knowingly continued to employ an unauthorized alien, or failed to comply with the employment eligibility verification requirements with respect to employees hired after Nov. 6, 1986.

DHS will issue a Notice of Intent to Fine (NIF) when it intends to impose penalties. If you receive an NIF, you may request a hearing before an administrative law judge. If your request for a hearing is not received within 30 days, DHS will impose the penalty and issue a Final Order, which cannot be appealed.

Hiring or Continuing to Employ Unauthorized Aliens

If DHS or an administrative law judge determines that you have knowingly hired unauthorized aliens (or are continuing to employ aliens knowing that they are or have become unauthorized to work in the United States), you may be ordered to cease and desist from such activity and pay a civil money penalty for each offense.

You will be considered to have knowingly hired an unauthorized alien if, after Nov. 6, 1986, you use a contract, subcontract or exchange, entered into, renegotiated or extended, to obtain the labor of an alien and know the alien is not authorized to work in the United States. You will be subject to the penalties above.

Failing to Comply With Form I-9 Requirements

If you fail to properly complete, retain, and/or make Form I-9 available for inspection as required by law, you may face civil money penalties for each violation. In

determining the amount of the penalty, DHS considers:

1. The size of the business of the employer being charged;
2. The good faith of the employer;
3. The seriousness of the violation;
4. Whether or not the individual was an unauthorized alien; and
5. The history of previous violations of the employer.

Enjoining Pattern or Practice Violations

If the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment or referral in violation of section 274A (a)(1)(A) or (2) of the INA (found at 8 U.S.C. 1324a (a)(1)(A) or (2)), the Attorney General may bring civil action in the appropriate U.S. District Court requesting relief, including a permanent or temporary injunction, restraining order or other order against the person or entity, as the Attorney General deems necessary.

Requiring Indemnification

Employers found to have required a bond or indemnity from an employee against liability under the employer sanctions laws may be ordered to pay a civil money penalty for each violation and to make restitution, either to the person who was required to pay the indemnity, or, if that person cannot be located, to the U.S. Treasury.

Good Faith Defense

If you can show that you have, in good faith, complied with Form I-9 requirements, then you may have established a “good faith” defense with respect to a charge of knowingly hiring an unauthorized alien, unless the government can show that you had actual knowledge of the unauthorized status of the employee.

A good faith attempt to comply with the paperwork requirements of section 274A(b) of the INA may be adequate notwithstanding a technical or procedural failure to comply, unless you fail to correct a violation within 10 days after notice from DHS.

Criminal Penalties

Engaging in a Pattern or Practice of Knowingly Hiring or Continuing to Employ Unauthorized Aliens

Persons or entities who are convicted of having engaged in a pattern or practice of knowingly hiring unauthorized

aliens (or continuing to employ aliens knowing that they are or have become unauthorized to work in the United States) after Nov. 6, 1986, may face fines and/or six months imprisonment.

Engaging in Fraud or False Statements, or Otherwise Misusing Visas, Immigration Permits, and Identity Documents

Persons who use fraudulent identification or employment authorization documents or documents that were lawfully issued to another person, or who make a false statement or attestation to satisfy the employment eligibility verification requirements, may be fined, or imprisoned for up to five years, or both. Other federal criminal statutes may provide higher penalties in certain fraud cases.

Unlawful Discrimination

If an investigation reveals that you engaged in unfair immigration-related employment practices under the INA, IER may file a lawsuit. Settlements or lawsuits may result in one or more corrective steps, including:

1. Hiring or reinstating, with or without back pay, individuals directly injured by the discrimination;
2. Posting notices to employees about their rights and about employers’ obligations; and/or
3. Educating all personnel involved in hiring about complying with anti-discrimination laws.

The court may award attorneys’ fees to prevailing parties, other than the United States, if it determines that the losing parties’ argument is without foundation in law and fact.

Employers that violate the anti-discrimination provision of the INA may also be ordered to pay a civil money penalty. For more information on civil penalties, contact IER.

If you are found to have committed national origin or other prohibited discrimination under Title VII or other federal law, you may be ordered to stop the prohibited practice and to take one or more corrective steps,

including:

1. Hiring, reinstating or promoting with back pay, benefits, and retroactive seniority;
2. Posting notices to employees about their rights and about the employer's obligations; and/or
3. Removing incorrect information, such as a false warning, from an employee's personnel file.

Under Title VII, compensatory damages may also be available where intentional discrimination is found. Damages may be available to compensate for actual monetary losses, for future monetary losses, and for mental anguish and inconvenience. Punitive damages may be available if you acted with malice or reckless indifference.

You may also be required to pay attorneys' fees, expert witness fees, and court costs.

Civil Document Fraud

If a DHS investigation reveals that an individual has knowingly committed or participated in acts relating to document fraud, DHS may take action. DHS will issue an NIF when it intends to impose penalties. Persons

who receive an NIF may request a hearing before an administrative law judge. If DHS does not receive a request for a hearing within 30 days, it will impose the penalty and issue a Final Order, which is final and cannot be appealed.

Individuals found by DHS or an administrative law judge to have violated section 274C of the INA may be ordered to cease and desist from such behavior and to pay a civil money penalty.

Additional Information

For more information relating to discrimination based upon national origin and citizenship or immigration status, and discrimination during the Form I-9 and E-Verify processes, contact IER at 1-800-255-8155 (employer hotline) or 1-800-237-2515 (TTY for the deaf or hard of hearing); or visit their website at [justice.gov/ier](https://www.justice.gov/ier).

For more information on Title VII and EEOC policies and procedures, call 1-800-669-4000, or 1-800-669-6820 (TTY for the deaf or hard of hearing), or visit EEOC's website at [eeoc.gov](https://www.eeoc.gov).

Part Five

Instructions for Recruiters and Referrers for a Fee

Under the INA, it is unlawful for an agricultural association, agricultural employer, or farm labor contractor to hire, recruit, or refer for a fee an individual for employment in the United States without complying with employment eligibility verification requirements. This provision applies to those agricultural associations, agricultural employers, and farm labor contractors who recruit persons for a fee, and those who refer persons or provide documents or information about persons to employers in return for a fee.

Note: “Recruiter or Referrer for a Fee” is limited to agricultural associations, agricultural employers, or farm labor contractors as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, Public Law 97-470 (29 U.S.C. 1802).

This limited class of recruiters and referrers for a fee must complete Form I-9 when a person they refer is hired. Form I-9 must be fully completed within three business days of the date employment begins, or, in the case of an individual hired for fewer than three business days, at the time employment begins.

Recruiters and referrers for a fee may designate agents, such as national associations or employers, to

complete the verification procedures on their behalf. If the employer is designated as the agent, the employer should provide the recruiter or referrer with a photocopy of Form I-9. However, recruiters and referrers for a fee are still responsible for compliance with the law and may be found liable for violations of the law.

Recruiters and referrers for a fee must retain Form I-9 for three years after the date the referred individual was hired by the employer. They must also make Form I-9 available for inspection by a DHS, DOL, or IER officer.

NOTE: This does not preclude DHS or DOL from obtaining warrants based on probable cause for entry onto the premises of suspected violators without advance notice.

The penalties for failing to comply with Form I-9 requirements and for requiring indemnification apply to this limited class of recruiters and referrers for a fee.

NOTE: All recruiters and referrers for a fee are still liable for knowingly recruiting or referring for a fee aliens not authorized to work in the United States.

Part Six

E-Verify: The Web-Based Verification Companion to Form I-9



Since verification of the employment authorization and identity of new hires became law in 1986, Form I-9 has been the foundation of the verification process. To improve the accuracy and integrity of this process, USCIS operates an electronic employment confirmation system called E-Verify.

E-Verify is a system that provides access to federal databases to help employers confirm the employment authorization of new hires. E-Verify is free and can be used by employers in all 50 states, as well as the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

Employers who participate in E-Verify must complete Form I-9 for each newly hired employee in the United States. E-Verify employers may accept any document or combination of documents on Form I-9, but if the employee chooses to present a List B and C combination, the List B (identity only) document must have a photograph.

After completing a Form I-9 for your new employee, create a case in E-Verify that includes information from Sections 1 and 2 of Form I-9. After creating the case, you will receive a response from E-Verify regarding the employment authorization of the employee. In some cases, E-Verify will provide a response indicating a tentative nonconfirmation of the employee's employment authorization. This does not necessarily mean that the employee is unauthorized to work in the United States. Rather, it means that E-Verify is unable to immediately confirm the employee's authorization to work. In the case of a tentative nonconfirmation, you must notify the employee, and an employee who wishes to contest a tentative nonconfirmation result should contact the appropriate agency (DHS or the Social Security Administration) within the prescribed time periods.

You must also follow certain procedures when using E-Verify that were designed to protect employees from unfair employment actions. You must use E-Verify for all new hires, both U.S. citizens and noncitizens, and may

not use the system selectively. You may not use E-Verify to prescreen applicants for employment, check employees hired before the company became a participant in E-Verify (except contractors with a federal contract that requires use of E-Verify), or reverify employees who have temporary employment authorization. You may not terminate or take other adverse action against an employee based on a tentative nonconfirmation.

E-Verify strengthens the Form I-9 employment eligibility verification process that all employers, by law, must follow. By adding E-Verify to the existing Form I-9 process, employers can benefit from knowing that it has taken an additional constructive step toward maintaining a legal workforce.

You can enroll in E-Verify at uscis.gov/e-verify, which provides instructions for completing the enrollment process. For more information, contact E-Verify at 888-464-4218, or visit the website listed above.

Federal Contractors

On Nov. 14, 2008, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council issued a final rule amending the Federal Acquisition Regulation (FAR) (FAR case 2007-013, Employment Eligibility Verification). This regulation was originally scheduled to be effective on Jan. 15, 2009, but the effective date was delayed until Sept. 8, 2009. The regulation requires contractors with a federal contract that contains a FAR E-Verify clause to use E-Verify for their new hires and all employees (existing and new) assigned to the contract. Federal contracts issued on or after Sept. 8, 2009, as well as older contracts that have been modified may contain the FAR E-Verify clause.

Federal contractors who have a federal contract that contains the FAR E-Verify clause must follow special rules when completing and updating Form I-9. For more information, please see the E-Verify Supplemental Guide for Federal Contractors available at uscis.gov/e-verify.

Part Seven

Some Questions You May Have About Form I-9

Employers should read these questions and answers carefully. They contain valuable information that, in some cases, is not found elsewhere in this handbook.

For more information on Form I-9, employers and employees can also visit I-9 Central at uscis.gov/i-9-central.

Questions about the Verification Process

1. Q. Do citizens and noncitizen nationals of the United States need to complete Form I-9?

- A. Yes. While citizens and noncitizen nationals of the United States are automatically eligible for employment, they too must present the required documents and complete a Form I-9. U.S. citizens include persons born in the United States, Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. U.S. noncitizen nationals are persons who owe permanent allegiance to the United States, which include those born in American Samoa, including Swains Island.

NOTE: Citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) are not noncitizen nationals, however they are eligible to work in the U.S.

2. Q. Do I need to complete Form I-9 for employees working in the CNMI?

- A. Yes. You need to complete Form I-9 for employees hired for employment in the CNMI on or after Nov. 27, 2011. Employers in CNMI should have used Form I-9 CNMI between Nov. 28, 2009 and Nov. 27, 2011. If the employer did not complete Form I-9 CNMI as required during this period the employer should complete a new Form I-9 as soon as the employer discovers the omission. You should not complete Form I-9 for any employees already working for you on Nov. 27, 2009, even if you assign them new job responsibilities within your company. For more information

on federal immigration law in the CNMI, go to uscis.gov/CNMI.

3. Q. Do I need to complete Form I-9 for independent contractors or their employees?

- A. No. For example, if you contract with a construction company to perform renovations on your building, you do not have to complete Form I-9 for that company's employees. The construction company is responsible for completing Form I-9 for its own employees. However, you may not use a contract, subcontract or exchange to obtain the labor or services of an employee knowing that the employee is unauthorized to work.

4. Q. May I fire an employee who fails to produce the required documents within three business days of their start date?

- A. Yes. You may terminate an employee who fails to produce the required document or documents, or an acceptable receipt for a document, within three business days of the date employment begins.

5. Q. What happens if I properly complete and retain a Form I-9 and DHS discovers that my employee is not actually authorized to work?

- A. You cannot be charged with a verification violation. You will also have a good faith defense against the imposition of employer sanctions penalties for knowingly hiring an unauthorized individual, unless the government can show you had knowledge of the unauthorized status of the employee.

Questions about Documents

6. Q. May I specify which documents I will accept for verification?

- A. No. The employee may choose which document(s) they want to present from the Lists of Acceptable Documents. You must accept

any document (from List A) or combination of documents (one from List B and one from List C) listed on Form I-9 and found in Part Eight of this handbook that reasonably appear on their face to be genuine and to relate to the person presenting them. To do otherwise could be an unfair immigration-related employment practice in violation of the anti-discrimination provision in the INA. Individuals who look and/or sound foreign must not be treated differently in the recruiting, hiring, or verification process. Please see Part Eight of this handbook for more information on acceptable documents.

For more information relating to discrimination during the Form I-9 process, contact IER at 1-800-255-8155 (employers) or 1-800-237-2515 (TDD) or visit IER's website at justice.gov/ier.

NOTE: An employer participating in E-Verify can only accept a List B document with a photograph.

7. Q. What is my responsibility concerning the authenticity of document(s) presented to me?

- A. You must physically examine the document(s), and if they reasonably appear on their face to be genuine and to relate to the person presenting them, you must accept them. To do otherwise could be an unfair immigration-related employment practice. If the document(s) do not reasonably appear on their face to be genuine or to relate to the person presenting them, you must not accept them.

However, you must provide the employee with an opportunity to present other documents from the Lists of Acceptable Documents.

8. Q. My employee has presented a U.S. passport card. Is this an acceptable document?

- A. Yes. The passport card is a wallet-size document issued by the U.S. Department of State. While its permissible uses for international travel are more limited than the U.S. passport book, the passport card is a fully valid passport that attests to the U.S. citizenship and identity of the bearer. As such, the passport card is considered a "passport" for purposes of Form I-9 and has been included on List A of the Lists of Acceptable Documents on Form I-9.

9. Q. Why was documentation for citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) added to the Lists of Acceptable Documents on Form I-9?

- A. Under the Compacts of Free Association between the United States and FSM and RMI, most citizens of FSM and RMI are eligible to reside and work in the United States as nonimmigrants. An amendment to the Compacts eliminated the need for citizens of these two countries to obtain Employment Authorization Documents (Forms I-766) to work in the United States. However, FSM and RMI citizens may also apply for Employment Authorization Documents (Forms I-766) if they wish, or present a combination of List B and List C documents. The List A document specific to FSM and RMI citizens is a valid FSM or RMI passport with a Form I-94/Form I-94A indicating nonimmigrant admission under one of the Compacts.

10. Q. How do I know whether a Native American tribal document issued by a U.S. tribe presented by my employee is acceptable for Form I-9 purposes?

- A. In order to be acceptable, a Native American tribal document should be issued by a tribe recognized by the U.S. federal government. Because federal recognition of tribes can change over time, to determine if the tribe is federally recognized, please check the Bureau of Indian Affairs website at bia.gov.

11. Q. Can the Certificate of Indian Status, commonly referred to as the status card or INAC card, be used as a Native American tribal document for Form I-9 purposes?

- A. No. This card is not a Native American tribal document. It is issued by Indian and Northern Affairs Canada (INAC), which is a part of the Canadian government.

12. Q. May I accept an expired document?

- A. No. Expired documents are no longer acceptable for Form I-9. However, you may accept Employment Authorization Documents (Forms I-766) and Permanent Resident Cards (Forms I-551) that appear to be expired on their face, but have been extended by USCIS.

For example, Temporary Protected Status (TPS) beneficiaries whose Employment Authorization Documents (Forms I-766) appear to be expired may be automatically extended in a Federal Register notice or, if the employee timely filed for a new Employment Authorization Document (Form I-766) the corresponding I-797C from USCIS indicating timely filing may be presented with the expired EAD to the employer as a List A document. These individuals may continue to work based on their expired Employment Authorization Documents (Forms I-766) during the automatic extension period. When the automatic extension of the Employment Authorization Document (Form I-766)

expires, you must reverify the employee's employment authorization.

Please see *Automatic Extensions of Employment Authorization Document in Certain Circumstances* for more information.

NOTE: Some documents, such as birth certificates and Social Security cards, do not contain an expiration date and should be treated as unexpired.

13. Q. How can I tell if a DHS-issued document has expired? If it has expired, should I reverify the employee?

- A. Some INS-issued documents, such as older versions of the Alien Registration Receipt Card (Form I-551), do not have expiration dates, and are still acceptable for Form I-9 purposes. However, all subsequent DHS-issued Permanent Resident Cards (Forms I-551) contain two-year or 10-year expiration dates. You should not reverify an expired Alien Registration Receipt Card/Permanent Resident Card (Form I-551). Other DHS-issued documents, such as the Employment Authorization Document (Form I-766) also have expiration dates. These dates can be found on the face of the document. Generally Employment Authorization Documents (Forms I-766) must be reverified upon expiration.

14. Q. May I accept a photocopy of a document presented by an employee?

- A. No. Employees must present original documents. The only exception is that an employee may present a certified copy of a birth certificate.

15. Q. I noticed on Form I-9 that under List A there are three spaces for document numbers and expiration dates. Does this mean I have to see three List A documents.

- A. No. Form I-9 (Rev. 11/14/16 N) includes an expanded document entry area in Section 2. The additional spaces are provided in case an employee presents a List A document that is really a combination of more than one document. For example, an F-1 student in curricular practical training may present, under List A, a foreign passport, Form I-94/Form I-94A and Form I-20 that specifies that you

are their approved employer. Form I-9 provides space for you to enter the document number and expiration date for all three documents. Another instance where an employer may need to enter document information for three documents is for J-1 exchange visitors. If an employee provides you with one document from List A (such as a U.S. passport), or a combination of two documents (such as a foreign passport and Form I-94/94A), you do not need to fill out any unused space(s) under List A.

16. Q. When I review an employee's identity and employment authorization documents, should I make copies of them?

- A. If you participate in E-Verify and the employee presents a document used as part of Photo Matching, currently the U.S. passport and passport card, Permanent Resident Card (Form I-551) and the Employment Authorization Document (Form I-766), you must retain a photocopy of the document they present. Other documents may be added to Photo Matching in the future. If you do not participate in E-Verify you are not required to make photocopies of documents. However, if you wish to make photocopies of documents other than those used in E-Verify, you must do so for all employees. Photocopies must not be used for any other purpose. Photocopying documents does not relieve you of your obligation to fully complete Section 2 of Form I-9, nor is it an acceptable substitute for proper completion of Form I-9 in general.

17. Q. When can employees present receipts for documents in lieu of actual documents from the Lists of Acceptable Documents?

- A. The "receipt rule" is designed to cover situations in which an employee is authorized to work at the time of initial hire or reverification, but they are not in possession of a document listed on the Lists of Acceptable Documents accompanying Form I-9. Receipts showing that a person has applied for an initial grant of employment authorization are not acceptable.

An individual may present a receipt in lieu of a document listed on Form I-9 to complete

Section 2 or Section 3 of Form I-9. The receipt is valid for a temporary period. There are three different documents that qualify as receipts under the rule:

1. A receipt for a replacement document when the document has been lost, stolen, or damaged. The receipt is valid for 90 days, after which the individual must present the replacement document to complete Form I-9.
2. Form I-94/I-94A containing a temporary I-551 stamp and a photograph. The individual must present the actual Form I-551 by the expiration date of the temporary I-551 stamp or within one year from the date of issuance of Form I-94/Form I-94A if the I-551 stamp does not contain an expiration date.
3. A Form I-94/Form I-94A containing an unexpired refugee admission stamp. This is considered a receipt for either an Employment Authorization Document (Form I-766) or a combination of an unrestricted Social Security card and List B document. The employee must present an Employment Authorization Document (Form I-766) or an unrestricted Social Security card in combination with a List B document to complete Form I-9 within 90 days after the date of hire or, in the case of reverification, the date employment authorization expires. For more information on receipts, see Table 1 in Part Two.

18. Q. My nonimmigrant employee has presented a foreign passport with a Form I-94/Form I-94A (List A, Item 5). How do I know if this employee is authorized to work?

- A. You, as the employer, likely have submitted a petition to USCIS on the nonimmigrant employee's behalf. However, there are some exceptions to this rule:
1. You made an offer of employment to a Canadian passport holder who entered the United States under the North American Free Trade Agreement (NAFTA) with an offer letter from your company. This nonimmigrant worker will have a Form I-94/Form I-94A indicating a TN immigration status, and may choose to

present it with their passport under List A. The employee may also present Form I-94/Form I-94A indicating a TN immigration status as a List C document, in which case your employee will need to present a List B document (such as a Canadian driver's license) to satisfy Section 2 of Form I-9.

2. A student working in on-campus employment or participating in curricular practical training (See Part Two.)
3. A J-1 exchange visitor. (See Part Two.)

Most employees who present a foreign passport in combination with a Form I-94 or I-94A (List A, Item 5) are restricted to work only for the employer who petitioned on their behalf. If you did not submit a petition for an employee who presents such documentation, then that non-immigrant worker is not usually authorized to work for you. See Part Two for more information on nonimmigrant employees.

19. Q. My new employee presented two documents to complete Form I-9, each containing a different last name. One document matches the name she entered in Section 1. The employee explained that she had just gotten married and changed her last name, but had not yet changed the name on the other document. Can I accept the document with the different name?

- A. You may accept a document with a different name than the name entered in Section 1 provided that you resolve the question of whether the document reasonably relates to the employee. You also may wish to attach a brief memo to Form I-9 stating the reason for the name discrepancy, along with any supporting documentation the employee provides. An employee may provide documentation to support their name change, but is not required to do so. If, however, you determine that the document with a different name does not reasonably appear to be genuine and to relate to her, you may ask her to

provide other documents from the Lists of Acceptable Documents on Form I-9.

20. Q. My employee entered a compound last name in Section 1 of Form I-9. The documents she presented contain only one of these names. Can I accept this document?

- A. DHS does not require employees to use any specific naming standard for Form I-9. If a new employee enters more than one last name in Section 1, but presents a document that contains only one of those last names, the document they present for Section 2 is acceptable as long as you are satisfied that the document reasonably appears to be genuine and to relate to the employee. It is helpful for individuals attesting to lawful permanent resident status who have more than one name to enter their name on Form I-9 as it appears on their Permanent Resident Card (Form I-551).

21. Q. The name on the document my employee presented to me is spelled slightly differently than the name they entered in Section 1 of Form I-9. Can I accept this document?

- A. If the document contains a slight spelling variation, and the employee has a reasonable explanation for the variation, the document is acceptable as long as you are satisfied that the document otherwise reasonably appears to be genuine and to relate to the employee.

22. Q. My employee's Employment Authorization Document (Form I-766) expired and the employee now wants to show me a Social Security card. Do I need to see a current DHS document?

- A. No. During reverification, an employee must be allowed to choose what documentation to present from either List A or List C. If an employee presents an unrestricted Social Security card upon reverification, the employee does not also need to present a current DHS document. However, if an employee presents a restricted Social Security card upon reverification, you must reject the restricted Social Security card, since it is not an acceptable Form I-9 document, and ask the employee to

choose different documentation from List A or List C of Form I-9.

23. Q. My employee presented me with a document issued by INS rather than DHS. Can I accept it?

- A. Yes, you can accept a document issued by INS if the document is unexpired and reasonably appears to be genuine and to relate to the individual presenting it. Effective March 1, 2003, the functions of the former INS were transferred to three agencies within the new DHS: USCIS, CBP, and ICE. Most immigration documents acceptable for Form I-9 use are issued by USCIS. Some documents issued by the former INS before March 1, 2003, such as Permanent Resident Cards or Forms I-94 noting asylee status, may still be within their period of validity. If otherwise acceptable, a document should not be rejected because it was issued by INS rather than DHS. It should also be noted that INS documents may bear dates of issuance after March 1, 2003, as it took some time in 2003 to modify document forms to reflect the new USCIS identity.

Questions about Completing and Retaining Form I-9

24. Q. Can an employee leave any part of Section 1 on Form I-9 blank?

- A. Employees must complete every applicable field in Section 1 of Form I-9 with the exception of the Social Security number field. However, employees must enter their Social Security number in this field if you participate in E-Verify. The e-mail address and telephone number fields are optional but if an employee chooses not to provide this information, they must enter "N/A." Do not leave these fields blank.

NOTE: Not all employees who attest to being an Alien Authorized to Work will have an expiration date for their employment authorization. However, refugees and asylees who present an Employment Authorization Document (Form I-766) have employment authorization that does not expire. These

individuals should put "N/A" where Section 1 asks for an expiration date.

25. Q. How do I correct a mistake on an employee's Form I-9?

- A. If you find a mistake on an employee's Form I-9, you must have the employee correct errors in Section 1. Employers must make corrections in Section 2. The best way to correct Form I-9 is to line through the portions of the form that contain incorrect information and then enter the correct information. Initial and date your correction. If you have previously made changes on Form I-9 using correction fluid, USCIS recommends that you attach a note to the corrected Form I-9 explaining what happened. Be sure to sign and date the note.

26. Q. What should I do if I need to reverify an employee who filled out an earlier version of Form I-9?

- A. If you used a version of Form I-9 when you originally verified the employee that is no longer valid, and you are now reverifying the employment authorization of that employee, the employee must provide any document(s) they choose from the current Lists of Acceptable Documents. Enter this new document(s) in Section 3 of the current version of Form I-9 and retain it with the previously completed Form I-9. To see if your form is an acceptable version of Form I-9, go to uscis.gov/i-9.

For more information on reverification, please see Part Two.

27. Q. Do I need to complete a new Form I-9 when one of my employees is promoted within my company or transfers to another company office at a different location?

- A. No. You do not need to complete a new Form I-9 for employees who have been promoted or transferred.

28. Q. What do I do when an employee's employment authorization expires?

- A. To continue to employ an individual whose employment authorization has expired, you will need to reverify the employee in Section 3

of Form I-9. Reverification must occur no later than the date that employment authorization expires. The employee must present a document from either List A or List C that shows either an extension of their initial employment authorization or new employment authorization. You must review this document and, if it reasonably appears on its face to be genuine and to relate to the person presenting it, enter the document title, number, and expiration date (if any), in the Reverification and Rehires section (Section 3), and sign in the appropriate space.

If the version of Form I-9 that you used for the employee's original verification is no longer valid, you must complete Section 3 of the current Form I-9 upon reverification and attach it to the original Form I-9.

You may want to establish a calendar notification system for employees whose employment authorization will expire and provide the employee with at least 90 days' notice prior to the expiration date of the employment authorization.

You may not reverify an expired U.S. passport or passport card, an Alien Registration Receipt Card/Permanent Resident Card (Form I-551), or a List B document that has expired.

Some workers are eligible for an automatic extension of their Employment Authorization Document for 180 days, in certain circumstances. If your employee presents an expired Employment Authorization Document (Form I-766) in combination with an I-797C Notice of Action from USCIS indicating both timely filing for a renewal of their Employment Authorization document and eligibility for a 180-day automatic extension of their Employment Authorization Document (Form I-766), you should not reverify the employee based on the expiration date on the face of the Employment Authorization Document (Form I-766); instead, update Section 2 of Form I-9 at that time. When the automatic extension of the Employment Authorization Document (Form I-766) expires (180 days after the expiration date on the face of the Employment Authorization Document (Form I-766)), you must reverify the employee's employment authorization. Please see *Automatic Extensions*

of Employment Authorization Document in Certain Circumstances for eligible categories and additional information.

NOTE: You cannot refuse to accept a document because it has a future expiration date. You must accept any document (from List A or List C) listed on Form I-9 that on its face reasonably appears to be genuine and to relate to the person presenting it. To do otherwise could be an unfair immigration-related employment practice in violation of the anti-discrimination provision of the INA.

29. Q. Can I avoid reverifying an employee on Form I-9 by not hiring persons whose employment authorization has an expiration date?

- A. No. You cannot refuse to hire persons solely because their employment authorization is temporary. The existence of a future expiration date does not preclude continuous employment authorization for an employee and does not mean that subsequent employment authorization will not be granted. In addition, consideration of a future employment authorization expiration date in determining whether an individual is qualified for a particular job may be an unfair immigration-related employment practice in violation of the anti-discrimination provision of the INA.

30. Q. Can I contract with someone to complete Form I-9 for my business?

- A. Yes. You can contract with another person or business to verify employees' identities and employment authorization and to complete Form I-9 for you. However, you are still responsible for the contractor's actions and are liable for any violations of the employer sanctions laws.

31. Q. How does the Immigrant and Employee Rights Section in the Department of Justice's Civil Rights Division (IER) obtain the necessary information to determine whether an employer has committed an unfair immigration-related employment practice

under the anti-discrimination provision of the INA?

- A. IER will notify you in writing to initiate an investigation, request information and documents, and interview your employees. If you refuse to cooperate, IER can obtain a subpoena to compel you to produce the information requested or to appear for an investigative interview.

32. Q. Do I have to complete Form I-9 for Canadians or Mexicans who entered the United States under the North American Free Trade Agreement (NAFTA)?

- A. Yes. You must complete Form I-9 for all employees. NAFTA entrants must show identity and employment authorization documents just like all other employees.

33. Q. If I am a recruiter or referrer for a fee, do I have to fill out Form I-9 on individuals that I recruit or refer?

- A. No, with three exceptions: Agricultural associations, agricultural employers, and farm labor contractors must complete Form I-9 on all individuals who are recruited or referred for a fee. However, all recruiters and referrers for a fee must complete Form I-9 for their own employees hired after Nov. 6, 1986. Also, all recruiters and referrers for a fee are liable for knowingly recruiting or referring for a fee individuals not authorized to work in the United States and must comply with federal anti-discrimination laws.

34. Q. If I am self-employed, do I have to fill out a Form I-9 on myself?

- A. A self-employed person does not need to complete a Form I-9 on their own behalf unless the person is an employee of a separate business entity, such as a corporation or partnership. If the person is an employee of a separate business entity, he or she, and any other employees, will have to complete Form I-9.

35. Q. I have heard that some state employment agencies, commonly known as state workforce

agencies, can certify that people they refer are authorized to work. Is that true?

- A. Yes. A state employment agency may choose to verify the employment authorization and identity of an individual it refers for employment on Form I-9. In such a case, the agency must issue a certification to you so that you receive it within 21 business days from the date the referred individual is hired. If an agency refers a potential employee to you with a job order, other appropriate referral form, or telephonically authorized referral, and the agency sends you a certification within 21 business days of the referral, you do not have to check documents or complete a Form I-9 if you hire that person. Before receiving the certification, you must retain the job order, referral form, or annotation reflecting the telephonically authorized referral as you would Form I-9. When you receive the certification, you must review the certification to ensure that it relates to the person hired and observe the person sign the certification. You must also retain the certification as you would a Form I-9 and make it available for inspection, if requested. You should check with your state employment agency to see if it provides this service and become familiar with its certification document.

Questions about Avoiding Discrimination

36. Q. What is the INA's Anti-Discrimination Provision?

- A. The Immigration and Nationality Act's (INA) anti-discrimination provision, codified at 8 U.S.C. § 1324b, is a law that prohibits four types of discriminatory unfair employment practices:
- Citizenship or immigration status discrimination with respect to hiring, firing, and recruitment or referral for a fee, by employers with four or more workers, subject to certain exceptions. Employers may not treat individuals differently because they are or are not U.S. citizens or because of their work-authorized immigration status. U.S. citizens, U.S. nationals, recent lawful permanent residents, asylees, and refugees are protected from citizenship status discrimination. An employer may restrict hiring to U.S. citizens

only when required to do so by law, regulation, executive order, or government contract.

- National origin discrimination with respect to hiring, firing, and recruitment or referral for a fee, by employers with four to 14 workers. Employers may not treat individuals differently because of their place of birth, country of origin, ancestry, native language, accent or because they are perceived as looking or sounding “foreign.” All work-authorized individuals are protected from national origin discrimination. The Equal Employment Opportunity Commission has jurisdiction over national origin discrimination claims against employers with 15 or more workers, regardless of the work authorization status of the discrimination victims.
- Unfair documentary practices related to verifying the employment eligibility of employees during the I-9 or E-Verify processes. Employers may not, on the basis of citizenship, immigration status, or national origin, request more or different documents than are required to verify employment eligibility and identity, reject reasonably genuine-looking documents, or specify certain documents over others. All work-authorized individuals are protected from unfair documentary practices.
- Intimidation or Retaliation. Employers may not intimidate, threaten, coerce, or retaliate against individuals who file charges with IER, who cooperate with an IER investigation, who contest an action that may constitute unfair documentary practices or discrimination based upon citizenship, immigration status, or national origin, or who otherwise assert their rights under the INA’s anti-discrimination provision.

37. Q. Can I limit hiring only to U.S. citizens?

- A. Employers cannot limit positions to U.S. citizens only unless they are required to do so by a law, executive order, regulation, or government contract that requires specific positions to be filled only by U.S. citizens. If a job applicant is discouraged or rejected from employment based on citizenship status, the employer may be committing citizenship status discrimination in violation of the anti-discrimination provision of the INA.

38. Q. Can I refuse to hire someone based on national origin?

- A. Failure to hire an individual based on the person’s national origin may violate the anti-discrimination provision of the INA if the employer employs between four and 14 employees, or may violate Title VII of the Civil Rights Act (enforced by the Equal Employment Opportunity Commission (EEOC)) if the employer has 15 or more employees. If a small employer has rejected your employment application based on your national origin, contact IER to determine whether IER or the EEOC has jurisdiction to assist you.

39. Q. Can I ask an employee to show a specific document for the Form I-9?

- A. No. For employment eligibility verification, an employee must be allowed to choose which documents to show from the Form I-9 Lists of Acceptable Documents. If the documentation reasonably appears to be genuine and to relate to the employee, the employer must accept it. An employer may be violating the anti-discrimination provision of the INA if the employer requires an employee to show specific documents or more documents than required based on the employee's citizenship, immigration status or national origin.

40. Q. Can I refuse to accept an employee’s documentation if I would prefer to see another type of documentation?

- A. No. For employment eligibility verification, an employee must be allowed to choose which documents to show from the Form I-9 Lists of Acceptable Documents. If the documentation reasonably appears to be genuine and to relate to the employee, the employer must accept it. An employer may be violating the anti-discrimination provision of the INA if the employer rejects the valid documentation an employee presents based on the employee’s citizenship, immigration status or national origin.

41. Q. Can I ask my employee to show the same type of document for reverification as the employee showed to complete Section 2?

- A. No. For reverification, an employee may choose which unexpired List A or List C document to present. An employer may be violating the anti-discrimination provision of the INA if the employer requires an employee to show specific documents for reverification based on the employee's citizenship, immigration status or national origin.

For more information on these or any other discrimination-related questions, call IER's employer hotline at 1-800-255-8155 or 1-800-237-2515 (TTY). You can also visit IER's website at justice.gov/ier.

For more information on avoiding discrimination in the Form I-9 and E-Verify processes, visit justice.gov/ier.

Questions about Different Versions of Form I-9

42. Q. Is Form I-9 available in different languages?

- A. Form I-9 is available in English and Spanish. However, only employers in Puerto Rico may use the Spanish version to meet the verification and retention requirements of the law. Employers in the United States and other U.S. territories may use the Spanish version as a translation guide for Spanish-speaking employees, but the English version must be

completed and retained in the employer's records. Employees may also use or ask for a preparer and/or translator to assist them in completing the form.

43. Q. Are employers in Puerto Rico required to use the Spanish version of Form I-9?

- A. No. Employers in Puerto Rico may use either the Spanish or the English version of Form I-9 to verify new employees.

44. Q. May I continue to use earlier versions of Form I-9?

- A. No, employers must use the current version of Form I-9. A revision date with an "N" next to it indicates that all previous versions with earlier revision dates, in English or Spanish, are no longer valid. You may also use subsequent versions that have a "Y" next to the revision date. If in doubt, go to uscis.gov/i-9 to view or download the most current form.

45. Q. Where do I get the Spanish version of Form I-9?

- A. You may download the Spanish version of this form from the USCIS website at uscis.gov/i-9. For employers without internet access, you may call the USCIS Forms Request Line toll-free at 800-870-3676.

For more questions and answers on Form I-9 topics, go to uscis.gov/i-9-central and select I-9 Central Questions & Answers.

Part Eight

Acceptable Documents for Verifying Employment Authorization and Identity

The following documents are acceptable for Form I-9 to establish an employee's employment authorization and identity. The comprehensive Lists of Acceptable Documents can be found on the next pages of this handbook and on the last page of Form I-9. Samples of many of the acceptable documents appear on the following pages.

To establish both identity and employment authorization, a person must present to their employer a document or combination of documents from List A, which shows both identity and employment authorization; or one document from List B, which shows identity and one document from List C, which shows employment authorization.

If a person is unable to present the required document(s) within three business days of the date work for pay begins, they must present an acceptable receipt within that time. If they present a receipt, the person must present the actual document when the receipt validity period ends. They must have indicated on or before the time employment began, by having checked an appropriate box in Section 1, that they are already authorized to be employed in the United States.

Receipts showing that a person has applied for an initial grant of employment authorization, or for renewal of employment authorization, are not acceptable. Receipts are also not acceptable if employment is for fewer than three business days. For a list of acceptable receipts for Form I-9, see Table 1 in Part Two. For more examples of acceptable documents, including List C #8, please visit uscis.gov/i-9-central. Note that a Form I-797C acknowledging receipt of an EAD renewal application presented with an expired EAD is considered an unexpired EAD in certain circumstances. Please refer to Part Two for further information.

The following pages show the most recent versions and representative images of some of the various acceptable documents on the list. These images can assist you in your review of the document presented to you. These pages are not, however, comprehensive. In some cases, many variations of a particular document exist and new versions may be published subsequent to the publication date of this handbook. Keep in mind that USCIS does not expect you to be a document expert. You are expected to accept documents that reasonably appear to be genuine and to relate to the person presenting them.

LIST A: Documents That Establish Both Identity and Employment Authorization

All documents must be unexpired.

- | | |
|--|--|
| 1. U.S. Passport or U.S. Passport Card | I-94A bearing the same name as the passport and an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form |
| 2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551) | |
| 3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa (MRIV) | |
| 4. Employment Authorization Document (Card) that contains a photograph (Form I-766) (including expired EADs in conjunction with Forms I-797 based on an EAD automatic extension in certain circumstances; see page 13) | |
| 5. For a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I-94 or Form | |
| | 6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI |

LIST B: Documents That Establish Identity

All documents must be unexpired.

For individuals 18 years of age or older:

1. Driver's license or ID card issued by a state or outlying possession of the United States, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address
2. ID card issued by federal, state, or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address
3. School ID card with a photograph
4. Voter's registration card
5. U.S. military card or draft record
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal document
9. Driver's license issued by a Canadian government authority

For persons under age 18 who are unable to present a document listed above:

10. School record or report card
11. Clinic, doctor, or hospital record
12. Day-care or nursery school record

LIST C: Documents That Establish Employment Authorization

All documents must be unexpired.

1. A Social Security Account Number card unless the card includes one of the following restrictions:
 - (1) NOT VALID FOR EMPLOYMENT
 - (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION
 - (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Certification of Birth Abroad issued by the U.S. Department of State (Form FS-545)
3. Certification of Report of Birth issued by the U.S. Department of State (Form DS-1350)
4. Original or certified copy of a birth certificate issued by a state, county, municipal authority, or outlying territory of the United States bearing an official seal
5. Native American tribal document
6. U.S. Citizen Identification Card (Form I-197)
7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
8. Employment authorization document issued by the Department of Homeland Security. For examples, please visit uscis.gov/i-9-central.

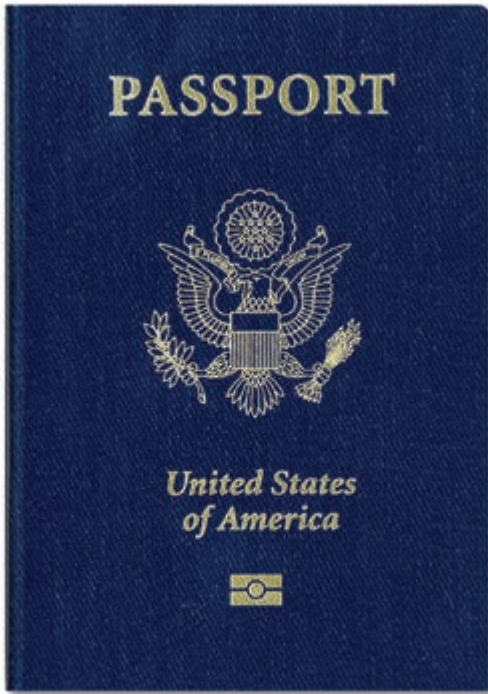
List A—Documents That Establish Both Identity and Employment Authorization

U.S. Passport

The U.S. Department of State issues the U.S. passport to U.S. citizens and noncitizen nationals. There are a small number of versions still in circulation that may differ from the main versions shown here.

The illustrations in this Handbook do not necessarily reflect the actual size of the documents.

Current U.S. Passport cover and open



Older U.S. Passport cover and open



Form I-20 Accompanied by Form I-94 or Form I-94A

Form I-94 or Form I-94A for F-1 nonimmigrant students must be accompanied by a Form I-20, Certificate of Eligibility for Nonimmigrant Students, endorsed with employment authorization by the designated school official for curricular practical training USCIS will issue an Employment Authorization Document (Form I-766) to all students (F-1 and M-1) authorized for optional practical training (OPT).

(See Form I-94 on next page.)

Form I-20 Accompanied by Form I-94 or Form I-94A

Form DS-2019 Accompanied by Form I-94 or Form I-94A

Nonimmigrant exchange visitors (J-1) must have a Form I-94 or Form I-94A accompanied by an unexpired Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status, issued by the U.S. Department of State, that specifies the sponsor. J-1 exchange students also need a letter from their responsible officer authorizing their employment.

(See Form I-94 on next page.)

Form DS-2019 Accompanied by Form I-94 or Form I-94A

Form I-94 or Form I-94A Arrival/Departure Record

CBP and sometimes USCIS issue arrival-departure records to nonimmigrants. This document indicates the bearer's immigration status, the date that the status was granted, and when the status expires. The immigration status notation within the stamp on the card varies according to the status granted, for example, L-1, F-1, J-1. Form I-94 can contain a handwritten date and status or be computer-generated. Form I-94A has a computer-generated date and status. Both may be presented with documents that Form I-9 specifies are valid only when Form I-94 or Form I-94A also is presented, such as the foreign passport, Form DS-2019, or Form I-20.

Form I-9 provides space for you to record the document number and expiration date for both the passport and Form I-94 or Form I-94A.

Electronic Form I-94 Arrival/Departure Record

U.S. Customs and Border Protection
Securing America's Borders

Get I-94 Number: I-94 FAQ

Admission (I-94) Number Retrieval

Admission (I-94) Record Number: 6900088062

Admit Until Date (MM/DD/YYYY): 10/10/2012

Details provided on Admission(I-94) form:

Family Name: LI
 First (Given) Name: LYDA
 Birth Date (MM/DD/YYYY): 01/01/1990
 Passport Number: P123123213
 Passport Country of Issuance: Mexico
 Date of Entry (MM/DD/YYYY): 04/11/2012

Departure Number: 813106636 11

Department of Homeland Security
CBP I-94A (11/04) Departure Record

L1
12345
09/17/2007

Family Name: SAMPLE
 First (Given) Name: AHMET
 Birth Date (Day Mo Yr): 22, 12, 50
 Country of Citizenship: PAKISTAN

20041122 US-VISIT 20050207 MULTIPLE

See Other Side STAPLE HERE

Form I-94A Arrival/Departure Record

Departure Number: 000000000 00 OMB No. 1651-0111

I-94 Departure Record

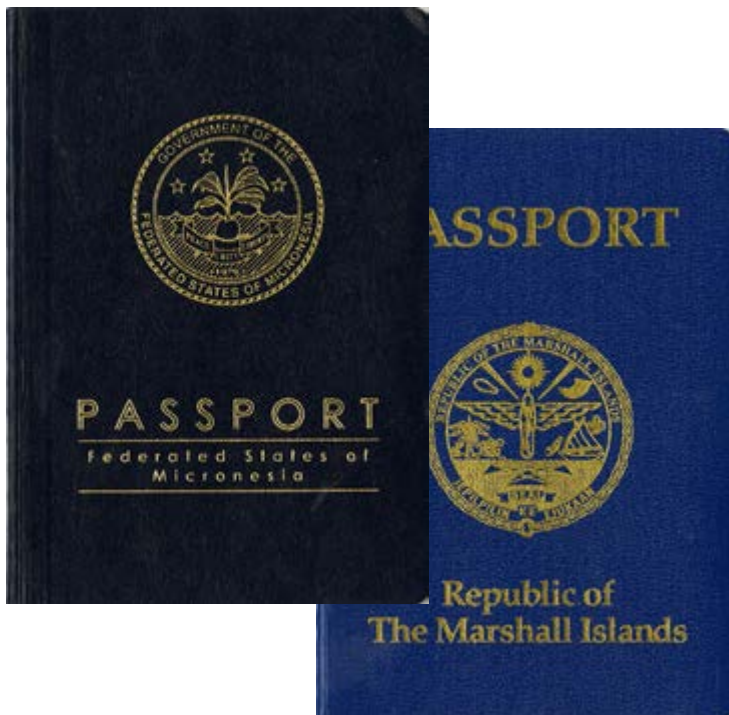
Sample ADMITTED APR 20 2011
F-1 D/S

14. Family Name: S | T | U | D | E | N | T |
 15. First (Given) Name: I | M | A |
 16. Birth Date (Day/Mo/Yr): 0 | 1 | 0 | 1 | 7 | 0 |
 17. Country of Citizenship: A | N | Y | | C | O | U | N | T | R | Y |

See Other Side STAPLE HERE

Form I-94 Arrival/Departure Record

Passports of the Federated States of Micronesia and the Republic of the Marshall Islands



In 2003, Compacts of Free Association (CFA) between the United States and the Federated States of Micronesia (FSM) and Republic of the Marshall Islands (RMI) were amended to allow citizens of these countries to work in the United States without obtaining an Employment Authorization Document (Form I-766).

For Form I-9 purposes, citizens of these countries may present FSM or RMI passports accompanied by a Form I-94 or Form I-94A indicating nonimmigrant admission under the CFA, which are acceptable documents under List A. The exact notation on Form I-94 or Form I-94A may vary and is subject to change. The notation on Form I-94 or Form I-94A typically states "CFA/FSM" for an FSM citizen and "CFA/MIS" for an RMI citizen.

Passports from the Federated States of Micronesia and the Republic of the Marshall Islands

List B—Documents That Establish Identity Only

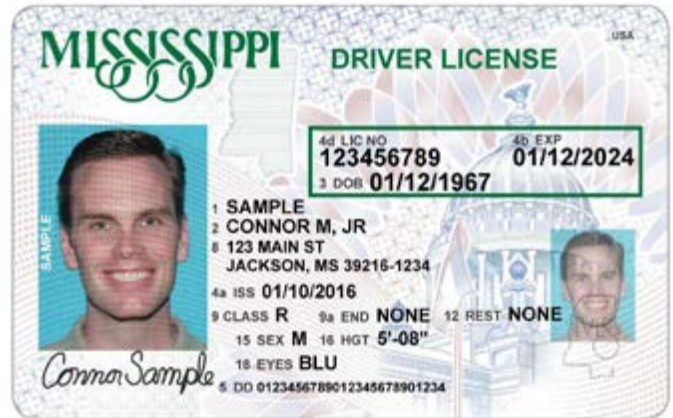
State-issued Driver's License

A driver's license can be issued by any state or territory of the United States (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) or by a Canadian government authority, and is acceptable if it contains a photograph or other identifying information such as name, date of birth, gender, height, eye color, and address.

Some states may place restrictive notations on their drivers' licenses. For Form I-9 purposes, these drivers' licenses may be acceptable.

State-issued drivers' licenses vary from state to state.

The illustrations below do not necessarily reflect the actual size of the documents.

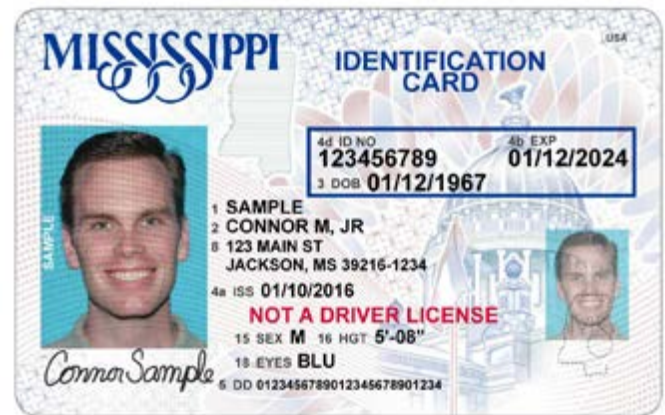


Driver's License from Mississippi

State-issued ID Card

An ID card can be issued by any state (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) or by a local government, and is acceptable if it contains a photograph or other identifying information such as name, date of birth, gender, height, eye color, and address.

Some states may place restrictive notations on their ID cards. For Form I-9 purposes, these cards may be acceptable.



Identification card from Mississippi

List C – Documents That Establish Employment Authorization Only

The following illustrations in this Handbook do not necessarily reflect the actual size of the documents.

U.S. Social Security Account Number Card

The U.S. Social Security account number card is issued by the Social Security Administration (older versions were issued by the U.S. Department of Health and Human Services), and can be presented as a List C document unless the card specifies that it does not authorize employment in the United States. Metal or plastic reproductions are not acceptable.



U.S. Social Security Card

Certifications of Birth Issued by the U.S. Department of State

These documents may vary in color and paper used. All will include a raised seal of the office that issued the document, and may contain a watermark and raised printing.



Certification of Birth Abroad Issued by the U.S. Department of State (FS-545)



Certification of Report of Birth Issued by the U.S. Department of State (DS-1350)

Birth Certificate

Only an original or certified copy of a birth certificate issued by a state, county municipal authority or outlying possession of the United States that bears an official seal is acceptable. Versions will vary by state and year of birth.

Beginning October 31, 2010, only Puerto Rico birth certificates issued on or after July 1, 2010 are valid. Please check uscis.gov for guidance on the validity of Puerto Rico birth certificates for Form I-9 purposes.

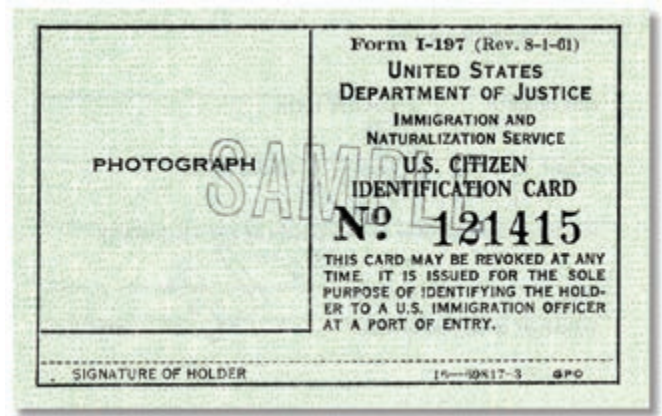


Birth Certificate

U.S. Citizen Identification Card (Form I-197)

Form I-197 was issued by the former Immigration and Naturalization Service (INS) to naturalized U.S. citizens. Although this card is no longer issued, it is valid indefinitely.

U.S. Citizen Identification Card
(Form I-197)



Identification Card for Use of Resident Citizen in the United States (Form I-179)

Form I-179 was issued by INS to U.S. citizens who are residents of the United States. Although this card is no longer issued, it is valid indefinitely.

Identification Card for Use of Resident
Citizen in the United States (Form I-179)



REMEMBER:

1. Hiring employees without complying with the employment eligibility verification requirements is a violation of the employer sanctions laws.
2. This law requires employees hired after Nov. 6, 1986, to present documentation that establishes identity and employment authorization. Employers must record this information on Form I-9.
3. Employers may not discriminate against employees on the basis of national origin or citizenship status.



U.S. Citizenship and Immigration Services

www.uscis.gov ♦ 1 800 375 5283