

Reverification of Employment Eligibility Frequently Asked Questions

July 2006

Q: What is “reverification”?

A: Reverification occurs when employers ask, at some later point in time, for additional documents from workers who already have presented documents to their employer that show they are eligible to work. For example, reverification can occur when a worker’s employment authorization document has expired.

Q: When should my employer verify or reverify my employment eligibility and look at my documents?

A: Your employer should ask to see your documents at the time you are hired. The law requires that when you are hired, you must show your new employer documents that establish your identity (who you are) and your eligibility to work in the United States. The employer reviews the documents when you and the employer complete an I-9 Employment Eligibility Verification Form.

On the back of the official I-9 form are three “Lists of Acceptable Documents”: List A, List B, and List C. You may choose to present one document from List A to establish both your identity and employment eligibility, or one document from List B (to establish identity) and one from List C (to establish employment eligibility). The employer must let you decide which documents to present. It is *your* choice, not the employer’s.

If you present employment eligibility documents that have expiration dates, the employer will write those dates on the I-9 form. On or near those dates, the employer may ask you again to present documents that show you are still eligible to work. This is called “reverification.”

An employer that is audited by U.S. Immigration and Customs Enforcement (ICE) and told by ICE that its I-9 forms contain mistakes or

other problems will most likely also be required to reverify its employees’ employment eligibility.

Q: Once I have shown my employer acceptable documents from List A or Lists B and C of the I-9 form, is the employer allowed to ask me to show more documents or different ones from the ones I chose?

A: When the worker and the employer fill out the I-9 form, the *worker always* must be allowed to choose which documents to present. As long as the documents the worker presents are on the I-9 form’s “Lists of Acceptable Documents,” the employer must accept them. If an employer refuses to accept any document that is on the lists — or asks to see more documents or different ones than the I-9 form requires — the employer is violating the antidiscrimination provisions of federal law (the Immigration and Nationality Act). This form of discrimination is sometimes called “document abuse.”

But an employer *is* required to reject any document that does not reasonably appear to be genuine or that does not relate to the person presenting it. In other words, the employer may reject a document that looks fake.

Q: Under what circumstances is it *not* okay for my employer to reverify my eligibility to work?

A: There are a few circumstances when an employer may not reverify your employment eligibility. Employers should *not* reverify your eligibility to work if you are a lawful permanent resident and presented your “green card” when you first filled out the I-9 form (even though your green card has an expiration date), because your status as a



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lawful permanent resident does not expire. Asylees and refugees are also authorized to work indefinitely. If they present documents that do not contain expiration dates, such as an unrestricted Social Security card, they should not be subject to reverification.

Nor should your employer reverify your employment eligibility after any of these things happen:

1. You take an approved leave from work, or a leave allowed under state or federal law, the employer's policy, or a union contract.
2. You are demoted or promoted.
3. You are laid off temporarily because of lack of work.
4. You go on strike or are involved in some other way in a labor dispute.
5. You are reinstated in your job by a court, arbitrator, or other body after disciplinary action.
6. You are engaged in seasonal employment.
7. You transfer from one unit to another with the same employer.
8. You continue in your job after your employer sells or transfers the business to another employer, so long as the new employer maintains your original employer's records and I-9 forms.

Workers to whom any of these things happen are considered to be under "continuing employment." Employers should not reverify the employment eligibility of such workers. Employers also should not reverify identity documents, such as driver's licenses, when they expire.

Q: What can I do if I believe my employer has discriminated against me?

A: If you believe your employer has required you to go through reverification because the employer wanted to discriminate against you, you can do something about it. If you belong to a union, you can talk to your union representative or steward and ask for advice and help. Or you can contact an organization that defends the rights of immigrant workers to ask for help. You can also file a complaint with the U.S. Department of Justice's Office of Special Counsel for

Immigration-Related Unfair Employment Practices (OSC). The OSC can be contacted at 1-800-255-7688 or 1-800-237-2515 (TDD). More information about the OSC and how it can help you is available on its website, www.usdoj.gov/crt/osc/index.html.

Q: I have temporary protected status (TPS), but my employment authorization card is expired. I have been told that the government automatically extended the work authorization of people in my situation. But my employer refuses to believe me. What should I do?

A: FIRST, you should get a copy of the Federal Register notice that says that the work authorization of people from your country who have TPS has been automatically extended. Copies of such notices can be downloaded from the part of U.S. Citizenship and Immigration Services' (CIS's) website, www.cis.gov, that provides information about TPS. For example, people from El Salvador with TPS can find their Federal Register notice at www.uscis.gov/graphics/services/tps_elsa.htm.

SECOND, take your employment authorization card and the Federal Register notice to your employer and explain again that, based on what the notice says, you are still eligible to work.

THIRD, if your employer still will not accept the employment authorization card, contact your union representative, a workers' rights advocate, or the U.S. Department of Justice's Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) at 1-800-255-7688 or 1-800-237-2515 (TDD). More information about the OSC and how it can help you is available on its website, www.usdoj.gov/crt/osc/index.html.

FINALLY, be aware that if you do not reregister for TPS within the time allowed in the Federal Register notice, you will lose TPS. You need to reregister for TPS even if your work authorization has been automatically extended. So make sure that you reregister for TPS before the deadline. More information about who is eligible for TPS, deadlines for reregistering, and the employment eligibility of people with TPS is available from a page on the website of U.S. Citizenship and Immigration Services, www.uscis.gov/graphics/services/tps_inter.htm.