

Know Your Rights about the Revised Form I-9

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U.S. Citizenship and Immigration Services recently issued a revised I-9 employment eligibility verification form for employers to use for new hires as of April 3, 2009.

The revised form removes some documents and adds others to the list of acceptable documents for the employment eligibility verification process. The most significant change is that expired documents are no longer acceptable proof of identification or employment authorization.

The most important point for advocates to remember is that workers are still afforded protections during the I-9 process:

- An employer may ask for employment authorization documents and begin the I-9 process only **after** the worker has been hired (an employer generally must review a worker's I-9 document(s) within 3 days of the worker's first day of work).
- It is the worker's choice which documents to show during the I-9 process (unless the employer uses E-Verify, in which case any List B document presented must contain a photo).
- If an employer asks for specific documents, that may constitute "**document abuse**" and violate federal law.
- Employers are not required to complete new I-9 forms for workers who completed the previous version of the I-9 or to ask current workers who presented documents that were acceptable under the prior version of the I-9 to present new documents.
- Workers who present a U.S. passport or "green card" with a future expiration date should not have their employment eligibility reverified. While the document may have an expiration date, the **worker's lawful status does not expire** with the document. Employers may not reverify a worker because his or her List B document expires. (*For a*

complete list of List B documents, see the URL provided below.)

- Documents that do not have an expiration date are considered unexpired.
- Any authorized worker who feels he or she has been subjected to unfair scrutiny by an employer because of his or her immigration status can contact the U.S. Department of Justice Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices for assistance at 1-800-255-7688 or 1-800-237-2515 (TDD for hearing impaired).



For a more detailed analysis of the revised I-9 form, including a complete list of the new List A, B, and C documents, and the Immigration and Nationality Act antidiscrimination protections, see "The I-9 Process and

Antidiscrimination Protections in the INA"

(www.nilc.org/immsemplymnt/ircaempverif/The-I-9-Process.pdf).

If an employer is enrolled in E-Verify, the worker must provide his or her Social Security number in section 1 of the I-9 form and employers may accept a document from List B on the I-9 form as proof of the worker's identity only if the document contains a photograph. For more information about your rights, see www.nilc.org/immsemplymnt/ircaempverif/E-Verify-KYRs_2008-05-08.pdf.

On August 22, 2009, USCIS extended its approval of the current Form I-9 until August 12, 2012. As such, employers can use either the Form I-9 with the revision date of either (08/07/09) or (02/02/09) at the bottom of the form. There are no substantive changes in the August 2009 revision.

FOR MORE INFORMATION, CONTACT

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