

# Advocates' Quick Guide to the *Handbook for Employers*

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## ■ What is the *Handbook for Employers*?

United States Citizenship and Immigration Services (USCIS) publishes the *Handbook for Employers: Instructions for Completing Form I-9* to provide guidance to employers on the I-9 employment eligibility verification process, including how to properly fill out Form I-9 and reverify an employee's work authorization. The handbook is also known as the "M-274 Handbook." USCIS revised the *Handbook* in July 2009.<sup>1</sup>



## ■ Why is it important for immigrant worker advocates to be familiar with the *Handbook*?

Oftentimes, employers do not know or understand their legal responsibilities when verifying or reverifying the employment eligibility of their employees. The *Handbook* provides accessible answers to many of the questions advocates encounter when helping immigrant workers. It also can be used as an advocacy tool to demonstrate to employers their responsibilities when verifying or reverifying employees' employment eligibility.

## ■ Common issues faced by immigrant workers, and finding relevant information about them in the *Handbook*

The list below is meant to provide a quick guide to some of the issues immigrant worker advocates often encounter in helping workers through the initial completion of the Form I-9 or through reverification.<sup>2</sup> The *Handbook* page on which relevant information can be found is provided in parentheses at the end of each bulleted issue.

- 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 three (3) days of the worker's first day of work. (Page 5.)
- It is the worker's choice which documents to show during the I-9 process. However, if the employer uses E-Verify,<sup>3</sup> any List B document presented must contain a photo, and the employee must provide a Social Security number (employees are not required to show a Social Security card unless they are using the Social Security card as their List C document). (Page 5.)

<sup>1</sup> It is available at [www.uscis.gov/files/nativedocuments/m-274.pdf](http://www.uscis.gov/files/nativedocuments/m-274.pdf).

<sup>2</sup> For more information, see *Reverification of Employment Eligibility* (National Immigration Law Center, Mar. 2010), [www.nilc.org/immsemplymnt/ircaempverif/tpstoolkit/reverification-QA-2010-03-16.pdf](http://www.nilc.org/immsemplymnt/ircaempverif/tpstoolkit/reverification-QA-2010-03-16.pdf).

<sup>3</sup> E-Verify is the federal government's pilot program for verifying employment eligibility via the Internet.

- There are specific circumstances in which receipts of documents from Lists A, B or C are acceptable in completing the I-9 process. For example, an employee may present a receipt that shows he or she has applied to replace a lost, stolen, or damaged document. (Pages 7–8, Table 1.)
- Employees with “unique or temporary work authorization” may present a document that otherwise may not be acceptable. For example, persons with temporary protected status (TPS) whose work authorization has been automatically extended via a notice in the Federal Register may present an employment authorization document that appears to be expired. (Pages 8–9, Table 2.)
- Future expiration dates on employment authorization documents should not factor into whether a worker is or is not qualified for the job. Refusing to hire workers on that basis may amount to employment discrimination. (Page 12.)
- The employment eligibility of workers who present a U.S. passport or permanent resident (“green”) card should not be reverified when the document expires, because such persons do not lose their employment eligibility when their documents expire. Nor should employers reverify the employment eligibility of workers because their List B (identity) document expires. (Page 12.)
- An employer that acquires employees via a merger with or the acquisition of another company may choose to retain the defunct company’s I-9 forms. It is not required to complete new I-9 forms for the newly acquired workers. (Page 15.)
- Employers have the option of keeping copies of documents workers submit to prove employment eligibility, but they are not generally required to do so. However, employers that use E-Verify must make copies of permanent resident cards and employment authorization documents. (Pages 16 and 32.)
- Federal law prohibits employers, in administering the I-9 process, from discriminating against workers on the basis of their citizenship or immigration status or their national origin, or from engaging in unfair practices related to requesting and reviewing workers’ documents, or from retaliating against workers who assert their rights with respect to the I-9 process. (Pages 19–20.)

**Any authorized worker who thinks he or she has been subjected to unfair scrutiny by an employer because of his or her immigration status or national origin may 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 more information

More information about Form I-9 (as revised in April 2009), including a complete current listing of acceptable documents (from the form’s Lists A, B, and C), and about the Immigration and Nationality Act’s antidiscrimination provisions is available in NILC’s publication *The I-9 Process and Antidiscrimination Protections in the INA* ([www.nilc.org/immsemplymnt/ircaempverif/The-I-9-Process-2009-09-08.pdf](http://www.nilc.org/immsemplymnt/ircaempverif/The-I-9-Process-2009-09-08.pdf)).

More information about E-Verify and how it modifies the I-9 process for employers that use it, as well as workers’ rights with regard to E-Verify, is available in NILC’s publication *Know Your Rights About E-Verify* ([www.nilc.org/immsemplymnt/ircaempverif/e-verify-kyr-2010-01.pdf](http://www.nilc.org/immsemplymnt/ircaempverif/e-verify-kyr-2010-01.pdf)).

### FOR MORE INFORMATION, CONTACT

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