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# University of Central Arkansas (UCA)

## I-9 Training 10/11/2023

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# I-9 Compliance

- **What is Form I-9?**

- Used to document that each employee hired after Nov 06, 1986 is authorized to work in the US
- All employees must complete a Form I-9, regardless of national origin, if hired after Nov 06, 1986
- Refusal to hire an individual because the documentation presented has a future expiration date may constitute illegal discrimination
- Employers must retain completed I-9s for either 3 years after the date of hire, or one year of the date employment ends, which ever is later
- Make sure you are using the current I-9 Form, new I-9 form issued on August 1, 2023

# I-9 Compliance

- **Who is required to fill out an I-9**
  - Employee:
    - Must complete **Section 1** at the time of *hire*
    - “Hire” means when the employment in exchange for wages or remuneration begins
      - BEST PRACTICE: Employee should complete Section 1 on the first day of employment
      - Includes employment even for only one (1) day
    - Employee may complete **Section 1** of Form I-9 before the time of hire, but no early than acceptance of job offer (cannot use I-9 to pre-screen for employment authorization)

# I-9 Compliance

- **Who is required to fill out an I-9**
  - **Completing Section 1:**
    - Have the employee fill out Section 1
    - Make sure all the boxes are filled out
      - Must the employee provide social security number?
        - Only mandatory if using E-verify, then it is permissible but not mandatory that the employee provide social security number.
      - Providing e-mail address or telephone number is always voluntary
    - Ensure that the employee has selected the appropriate box explaining their current status, e.g. US Citizen, Permanent Resident, etc.
    - **Ensure that employee signs and dates Section 1**
    - Check the dates for date of birth and signing date
    - Preparer / Translator section should only be completed if someone other than the employee completed the Form I-9 in the employee's presence

# I-9 Compliance

| 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)   |                             | First Name (Given Name)   |                          | Middle Initial (if any)    | Other Last Names Used (if any) |   |
| Address (Street Number and Name)  |                             | Apt. Number (if any)  | City or Town             |                            | State ZIP Code                 |   |
| Date of Birth (mm/dd/yyyy)  | U.S. Social Security Number |   | Employee's Email Address |                            | Employee's Telephone Number    |   |
| <b>I am aware that federal law provides for imprisonment and/or fines for false statements, or the use of false documents, in connection with the completion of this form. I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.</b> |                             | Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):   |                          |                            |                                |   |
|   |                             | <input type="checkbox"/> 1. A citizen of the United States  |                          |                            |                                |   |
|   |                             | <input type="checkbox"/> 2. A noncitizen national of the United States (See Instructions.)                                      |                          |                            |                                |   |
|   |                             | <input type="checkbox"/> 3. A lawful permanent resident (Enter USCIS or A-Number.)  |                          |                            |                                |   |
|   |                             | <input type="checkbox"/> 4. A noncitizen (other than Item Numbers 2. and 3. above) authorized to work until (exp. date, if any) |                          |                            |                                |   |
|   |                             | If you check Item Number 4., enter one of these:  |                          |                            |                                |   |
|   |                             | USCIS A-Number  | OR                       | Form I-94 Admission Number | OR                             | Foreign Passport Number and Country of Issuance |
|   |                             |   |                          |                            |                                |   |
| Signature of Employee   |                             |   |                          | Today's Date (mm/dd/yyyy)  |                                |   |
| If a preparer and/or translator assisted you in completing Section 1, that person MUST complete the <a href="#">Preparer and/or Translator Certification</a> on Page 3.   |                             |   |                          |                            |                                |   |

# I-9 Compliance

- **Who is required to fill out an I-9**
  - Employer:
    - Must complete **Section 2** within three (3) days of hire
    - Ensure that **Section 1** is completed *before* finishing **Section 2**
    - *Remember* to fill out the employee's Last Name, First Name and Middle Initial from Section 1.
    - Must ask for either a LIST A document or LIST B & LIST C Document

## LISTS OF ACCEPTABLE DOCUMENTS

All documents containing an expiration date must be unexpired.

\* Documents extended by the issuing authority are considered unexpired.

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

Examples of many of these documents appear in the Handbook for Employers (M-274).

| LIST A<br>Documents that Establish Both Identity<br>and Employment Authorization  | OR | LIST B<br>Documents that Establish Identity  | AND | LIST C<br>Documents that Establish Employment<br>Authorization  |
|---|----|--|-----|---|
| <ol style="list-style-type: none"> <li>U.S. Passport or U.S. Passport Card</li> <li>Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</li> <li>Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa</li> <li>Employment Authorization Document that contains a photograph (Form I-766)</li> <li>For an individual temporarily authorized to work for a specific employer because of his or her status or parole:               <ol style="list-style-type: none"> <li>Foreign passport; and</li> <li>Form I-94 or Form I-94A that has the following:                   <ol style="list-style-type: none"> <li>The same name as the passport; and</li> <li>An endorsement of the individual's status or parole as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.</li> </ol> </li> </ol> </li> <li>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</li> </ol> |    | <ol style="list-style-type: none"> <li>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</li> <li>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</li> <li>School ID card with a photograph</li> <li>Voter's registration card</li> <li>U.S. Military card or draft record</li> <li>Military dependent's ID card</li> <li>U.S. Coast Guard Merchant Mariner Card</li> <li>Native American tribal document</li> <li>Driver's license issued by a Canadian government authority</li> <li><b>For persons under age 18 who are unable to present a document listed above:</b></li> <li>School record or report card</li> <li>Clinic, doctor, or hospital record</li> <li>Day-care or nursery school record</li> </ol> |     | <ol style="list-style-type: none"> <li>A Social Security Account Number card, unless the card includes one of the following restrictions:               <ol style="list-style-type: none"> <li>NOT VALID FOR EMPLOYMENT</li> <li>VALID FOR WORK ONLY WITH INS AUTHORIZATION</li> <li>VALID FOR WORK ONLY WITH DHS AUTHORIZATION</li> </ol> </li> <li>Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)</li> <li>Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal</li> <li>Native American tribal document</li> <li>U.S. Citizen ID Card (Form I-197)</li> <li>Identification Card for Use of Resident Citizen in the United States (Form I-179)</li> <li>Employment authorization document issued by the Department of Homeland Security<br/><br/>For examples, see <a href="#">Section 7</a> and <a href="#">Section 13</a> of the M-274 on <a href="https://uscis.gov/i-9-central">uscis.gov/i-9-central</a>.<br/><br/>The Form I-766, Employment Authorization Document, is a List A, <b>Item Number 4</b>, document, not a List C document.</li> </ol> |
| <p align="center"><b>Acceptable Receipts</b></p> <p align="center">May be presented in lieu of a document listed above for a temporary period.</p> <p align="center">For receipt validity dates, see the M-274.</p>   |    |  |     |   |
| <ul style="list-style-type: none"> <li>Receipt for a replacement of a lost, stolen, or damaged List A document.</li> <li>Form I-94 issued to a lawful permanent resident that contains an I-551 stamp and a photograph of the individual.</li> <li>Form I-94 with "RE" notation or refugee stamp issued to a refugee.</li> </ul>  | OR | <ul style="list-style-type: none"> <li>Receipt for a replacement of a lost, stolen, or damaged List B document.</li> </ul>   |     | <ul style="list-style-type: none"> <li>Receipt for a replacement of a lost, stolen, or damaged List C document.</li> </ul>  |

# I-9 Compliance

- Good Faith Document Inspection
  - Reasonable Inspection of the Documents
    - Examine each *original* document (not copies!) to determine if the document *reasonably* appears to be genuine
      - Look to see if the document looks normal, has all the correct information
      - If you reasonably determine that a document is not legitimate, you may reject and ask for another document
      - If you are not sure whether it is legitimate or not, err on the side that it is legitimate
    - The person that examines the document, must be the same person that signs the certification
  - Avoid *Document Abuse*
    - If an employee presents a valid LIST A document, or valid LIST B and LIST C documents, no further documentation should be presented to the employer

# I-9 Compliance

- Alternative Verification Of Documents
  - A new rule now allows for remote verification of I-9 documentation, if the following requirements are satisfied beginning on or after August 1, 2023: In order to take advantage of this new alternative I-9 verification process, the following requirements must be satisfied:
    1. The employer must be enrolled in E-Verify for that location of employment (hiring site) and in good standing
    2. The employer must retain clear and legible copies of all documents presented by the employee seeking to establish identity and employment eligibility
    3. The employer and any users who manage and create E-Verify cases must complete an E-Verify tutorial that includes fraud awareness and anti-discrimination training
    4. The employer must conduct a live video interactive session with the employee verifying the veracity of the documentation, after the employee transmits a copy of the documentation employer – this interactive video session must include a review of the front and back of the documents

# I-9 Compliance

- Alternative Verification Of Documents

The process for the alternative procedure of I-9 compliance must be completed as follows within three business days of an employee's first day of employment, a qualified employer (or an authorized representative acting on such an employer's behalf, such as a third-party vendor) who chooses to use the alternative procedure must:

1. Examine copies (front and back, if the document is two-sided) of Form I-9 documents or an acceptable receipt to ensure that the documentation presented reasonably appears to be genuine;
2. Conduct a live video interactive session with the individual presenting the document(s) to ensure that the documentation reasonably appears to be genuine and related to the individual. The employee must first transmit a copy of the document(s) to the employer (per Step 1 above) and then present the same document(s) during the live video interaction;
3. Indicate on the Form I-9, by completing the corresponding box, that an alternative procedure was used to examine documentation to complete Section 2 or for reverification, as applicable;
4. Retain, consistent with applicable regulations, a clear and legible copy of the documentation (front and back if the documentation is two-sided); and
5. In the event of a Form I-9 audit or investigation by a relevant federal government official, make available the clear and legible copies of the identity and employment authorization documentation presented by the employee for document examination in connection with the employment eligibility verification process.

A qualified employer does not need to use the alternative procedure, but if a qualified employer chooses to offer the alternative procedure to some employees at an E-Verify hiring site, that employer must do so consistently for all employees at that site. However, a qualified employer may choose to offer the alternative procedure for remote hires only but continue to apply physical examination procedures to all employees who work onsite or in a hybrid capacity, so long as the employer does not adopt such a practice for a discriminatory purpose or treat employees differently based on a protected characteristic. Under no circumstances can employers unlawfully discriminate, such as by deciding who is eligible for the alternative procedure based on a protected characteristic.

# I-9 Compliance

- **Completing Section 2**
  - Record the Document Title
    - E.g. U.S. Passport, Driver's License, Social Security Card, etc.
    - Fill out this part as accurate as possible
      - Make sure that it is clear without accompanying documentation what documents was examined for I-9 verification purposes
  - Record Issuing Authority
    - Do not skip this step, even for Social Security Cards! Not all Social Security Cards are from the same issuing authority
  - Enter Expiration Date
    - If there is no expiration date, e.g. Social Security Cards, hand write "none" under expiration date
  - Social Security Cards with limitations (e.g. "Subject to DHS Authorization") require a another document to prove work authorization

# I-9 Compliance

- Completing **Section 2**
  - Certification
    - Remember to include employee's first day of employment
  - Fill out all of the fields
    - Don't forget to include employer's business address

# I-9 Compliance

- Keeping Photocopies
  - Employers may, but are not required to, photocopy the documents presented
  - If photocopies are made, they should be made for **ALL** new hires or reverifications
  - Employers must always complete **Section 2** even if photocopies are made
  - Making photocopies does not take the place of completing an I-9
- However, must if enrolled in E-Verify, then must copy the following List A documents:
  - US Passport
  - US Passport Card
  - Form I-551, Permanent Resident Card
  - Form I-766, Employment Authorization Document (EAD)

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For reverification or rehire, complete [Supplement B, Reverification and Rehire](#) on Page 4.

# I-9 Compliance

- Completing **Supplement B, Reverification and Rehire**
  - When rehiring an employee within 3 years of the date Form I-9 was originally completed and if documentation is still valid, can either use Supplement B, or new I-9
  - If employee had temporary/expiring work authorization, employers must reverify employment authorization on or before the date provided
  - Do not reverify the following:
    - U.S. Citizens
    - Permanent Residents
    - LIST B Documents

# I-9 Compliance

- Completing Supplement B
  - **Top of Page**
    - Complete Last Name, First Name and Middle Initial
  - Date of Rehire
    - Complete date of rehire.
  - Name Change
    - Complete Section of Name Change
  - Reverification
    - Use when the employment authorization is about to expire and requires reverification
    - This will only be applicable to individuals that are not U.S. Citizens, not Permanent Residents and not noncitizen national of the United States
- Sign, date and print your name at the appropriate attestation section.

# I-9 Compliance



Supplement B,  
Reverification and Rehire (formerly Section 3)  
Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
Form I-9  
Supplement B  
OMB No. 1615-0047  
Expires 07/31/2026

|   |   |   |
|---|---|---|
| Last Name (Family Name) from Section 1. | First Name (Given Name) from Section 1. | Middle Initial (if any) from Section 1. |
|---|---|---|

Instructions: This supplement replaces Section 3 on the previous version of Form I-9. Only use this page if your employee requires reverification, is rehired within three years of the date the original Form I-9 was completed, or provides proof of a legal name change. Enter the employee's name in the fields above. Use a new section for each reverification or rehire. Review the Form I-9 instructions before completing this page. Keep this page as part of the employee's Form I-9 record. Additional guidance can be found in the [Handbook for Employers: Guidance for Completing Form I-9 \(M-274\)](#)

|   |   |  |                |
|---|---|--|----------------|
| Date of Rehire (if applicable)<br>Date (mm/dd/yyyy)   | New Name (if applicable)<br>Last Name (Family Name) | First Name (Given Name)  | Middle Initial |
| Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.  |   |  |                |
| Document Title  | Document Number (if any)                            | Expiration Date (if any) (mm/dd/yyyy)  |                |
| 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 documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it. |   |  |                |
| Name of Employer or Authorized Representative   | Signature of Employer or Authorized Representative  | Today's Date (mm/dd/yyyy)  |                |
| Additional Information (Initial and date each notation.)  |   | <input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents. |                |

|   |   |  |                |
|---|---|--|----------------|
| Date of Rehire (if applicable)<br>Date (mm/dd/yyyy)   | New Name (if applicable)<br>Last Name (Family Name) | First Name (Given Name)  | Middle Initial |
| Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.  |   |  |                |
| Document Title  | Document Number (if any)                            | Expiration Date (if any) (mm/dd/yyyy)  |                |
| 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 documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it. |   |  |                |
| Name of Employer or Authorized Representative   | Signature of Employer or Authorized Representative  | Today's Date (mm/dd/yyyy)  |                |
| Additional Information (Initial and date each notation.)  |   | <input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents. |                |

|   |   |  |                |
|---|---|--|----------------|
| Date of Rehire (if applicable)<br>Date (mm/dd/yyyy)   | New Name (if applicable)<br>Last Name (Family Name) | First Name (Given Name)  | Middle Initial |
| Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.  |   |  |                |
| Document Title  | Document Number (if any)                            | Expiration Date (if any) (mm/dd/yyyy)  |                |
| 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 documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it. |   |  |                |
| Name of Employer or Authorized Representative   | Signature of Employer or Authorized Representative  | Today's Date (mm/dd/yyyy)  |                |
| Additional Information (Initial and date each notation.)  |   | <input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents. |                |

# I-9 Compliance

- Special Cases:
  - Automatic Extension of Employment Authorization (EADs)
    - Many EADs now have either a 540 day, or 180 day automatic extension
- New Employees
  - New employees presenting an EAD that has been automatically extended must complete Section 1 as follows:
    - Select “A noncitizen authorized to work until;” and
    - Depending on the “Received Date” on Form I-797C, enter the appropriate date (either 540 days or 180 days from the “Card Expires” date on the EAD) as the expiration date of employment authorization. Employees whose status does not expire, such as refugees or asylees, should enter “N/A” as the expiration date.
  - In Section 2, in the List A column, the employer must:
    - Enter “EAD” in the Document Title field; and
    - Enter the receipt number from Form I-797C, Notice of Action, in the Document Number field.
    - In the Expiration Date field, enter the date 540 days from the “Card Expires” date on the EAD if the “Received Date” on Form I-797C is on or before Oct. 26, 2023 or enter the date 180 days from the “Card Expires” date on the EAD if the “Received Date” on Form I-797C is after Oct. 26, 2023.
    - For automatic extensions of up to 540 days (which reflects a temporary increase to the normal automatic extension of up to 180 days), the employer should enter “EAD EXT” in the Additional Information field and may keep a copy of the USCIS webpage describing the temporary extension of up to 540 days with the employee’s Form I-9.

# I-9 Compliance

- Special Cases:
  - Automatic Extension of Employment Authorization (EADs)
    - Many EADs now have either a 540 day, or 180 day automatic extension
- Current Employees
  - For a current employee whose employment authorization and/or EAD has been automatically extended and who presents a Form I-797C, Notice of Action, the employer must enter the appropriate automatic extension expiration date in the Section 2 Additional Information field.
  - Employers should also enter “EAD EXT” in the same field and may keep a copy of the USCIS webpage describing the temporary extension of up to 540 days with the employee’s Form I-9, if applicable. If the employee’s original Form I-9 was completed on a Form I-9 that is no longer valid, enter EAD EXT and the new expiration date in the Additional Information field in Section 2 of the latest version of Form I-9 and retain it with the employee’s original Form I-9.

# I-9 Compliance

- Special Cases:
  - J-1 Exchange Visitors
    - The J-1 exchange visitor must enter the DS-2019 Program End Date in Section 1 as the date employment authorization expires. A J-1 student must enter in Section 1 the end date from their responsible officer letter authorizing employment or the program end date on the DS-2019 if issued for academic training.
    - In Section 2, the employer may enter:
      - A List A document, including the combination of: A foreign passport;
      - Form I-94 indicating J-1 nonimmigrant status; and
      - Form DS-2019 with the responsible officer's endorsement.
      - Enter the Student and Exchange Visitor Information System (SEVIS) number as the document number and the program end date as the document expiration date.
      - A J-1 student must also provide a letter from the responsible officer. Enter the document information in the Additional Information field.
    - List B and C documents:
      - For example, a state driver's license (List B) and a Form I-94 indicating J-1 nonimmigrant status with a properly endorsed Form DS-2019 (List C #7).
      - Enter the SEVIS number as the document number and the program end date as the expiration date.
      - A J-1 student must also provide a letter from the responsible officer. Enter the information in the Additional Information field.

# I-9 Compliance

- Special Cases:
  - F-1 and M-1 Students
    - On-Campus Employment
      - A List A document, including the combination of:
        - A foreign passport; and
        - Form I-94 indicating F-1 nonimmigrant status
      - Or List B and List C documents:
        - For example, a state driver's license (List B document) and, under List C #7, a Form I-94 indicating F-1 nonimmigrant status.
    - Curricular Practical Training
      - A List A document, including the combination of:
        - A foreign passport;
        - Form I-94 indicating F-1 nonimmigrant status; and
        - Form I-20 with the DSO endorsement for employment
      - Or List B and List C documents:
        - For example, a state driver's license (List B document) and, under List C #7, a Form I-94 indicating F-1 nonimmigrant status with a properly endorsed Form I-20. You should enter the additional List C document in the Additional Information box.

# I-9 Compliance

- Retention of I-9s
  - Employers must retain an employee's I-9 for as long as the individual works for the employer
  - Once employment is terminated, the I-9 form must be kept for at least three years after the date of hire, or one year after the date employment is terminated, whichever is later
  - I-9s may be retained either on paper, microform, or electronically
  - Electronic Signatures
    - If completing Form I-9s electronically using 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. Additionally, the system must:
      - Affix the electronic signature at the time of the transaction
      - Create and preserve a record verifying the identity of the person producing the signature, and
      - Upon request of the employee, provide a printed confirmation of the transaction to the person providing the signature

# I-9 Compliance

- Retention of I-9s
  - If you retain Form I-9s electronically you must also implement an effective records security program that:
    - Ensures that only authorized personnel have access to electronic records
    - Provides for backup and recovery of records to protect against information loss
    - Ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of electronic records, and
    - 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

# I-9 Compliance

- Fixing Errors
  - Standard is *Good Faith* compliance
  - Line through the portions of the form that contain incorrect information, then enter the correct information
  - Always initial and date corrections
  - Do not use white-out; if you white-out a mistake, attach a note to the form explaining what happened (sign and date the note)
  - NEVER BACK DATE A CORRECTION!
    - Input the date of rehire, if the employee is hired within three (3) years when the I-9 was originally completed
  - Supplement B:
    - Use when the employment authorization is about to expire and requires reverification
    - The employee is rehired within three (3) years of the original I-9 and the original employment authorization document has expired
  - Sign, date and print your name on the attestation section

# I-9 Compliance

- Common Mistakes That May Violate Anti-Discrimination Provisions
  - Unless using E-verify, asking an employee to provide a specific document with his or her Social Security Number, or asking for a Social Security Number
  - Considering a future employment authorization expiration date in determining whether an employee is qualified for a particular job
  - Document Abuse
  - Best Practice: **Uniformity in Process!**

# I-9 Compliance

- Audits
  - Beginning April 2009 ICE began focusing its worksite enforcement activities on auditing and inspecting employer's hiring records
  - I-9 audits can be followed by criminal warrants and serious fines and penalties
  - During an I-9 inspection ICE personnel will review I-9 records noting alien registration numbers and social security numbers of employees, and then verify those numbers against government records
  - May receive notice of intent to fine (NIF)

# I-9 Compliance

- Ten Day Correction Period
  - Typically, cannot be fined for “technical or procedural” paperwork violations, unless employer fails to correct within 10 business days, such as
    - Failure of the employee to list his or her maiden name, address, or birth date in Section 1
    - Failure to ensure that the employee dates Section 1 of the Form I-9 at the time employment begins
    - Failure of the form's preparer or translator to print his or her name, address, signature or date in the preparer's certification box
    - Failure of the employer to provide the title, business name, and business address in Section 2
    - Failure to date Section 2 of the I-9 form within three business days of the date the individual begins employment or, if the individual is employed for three business days or less, at the time employment begins
    - Failure to provide the date of rehire in Section 3
  - Substantive failures are not subject to the ten-day correction period, such as
    - Failure of the employee to provide his or her printed name in Section 1
    - Failure of the employee to check one of the boxes in Section 1 indicating his or her citizenship or immigration status
    - Failure of the employee to sign Section 1
    - Failure of the employer to sign the attestation in Section 2
    - Failure of the employer to sign Section 3 when reverification is required

# I-9 Compliance

- Fines

- ICE will issue a Notice of Intent to Fine (NIF), Form I-763, if there is reason to believe that an employer has violated the employer sanctions provisions
- Five factors when determining the level of fine to assess:
  - The size of the employer's business
  - The employer's good faith
  - The seriousness of the violation(s)
  - Whether or not the individuals involved were unauthorized aliens
  - Any history or previous violations by the employer

# I-9 Compliance

- Hearings

- If the employer decides to contest the NIF and wants to request a hearing before an administrative law judge (ALJ), it must submit a written response to ICE by mail within the 30-day period (35 days if service was by ordinary mail). The response is not considered filed until it is actually received by the ICE office designated in the NIF
- The answer must respond to each allegation made in the complaint, either to admit or deny it, or to state that the employer lacks sufficient information to do either
- The employer can also contest the amount of the proposed fine and make any affirmative defenses to which the employer is entitled, supported by factual statements

- Negotiate fine settlement with ICE

- It is also possible to negotiate a settlement with ICE

# I-9 Compliance

- Preparing for audits
  - Maintaining an I-9 system that complies with ICE standards and establishing a plan for regular I-9 audits are the best defenses to charges of knowingly employing or harboring undocumented workers
  - The following (minimum) steps should be taken when conducting an in-house audit
    - Evaluate prior immigration history and history of sponsoring foreign nationals
    - Evaluate present IRCA compliance procedures
    - Separate verification records which are no longer required and maintain them in a separate file
    - Remaining verification records should be sorted and reviewed for completeness
    - Review changes to I-9 laws, and requirements for E-Verify (where necessary)

# I-9 Compliance

- Preparing for audits
  - Ensure that all individuals who are responsible for I-9 verification and hiring new employees are aware of I-9 verification protocols
  - Elect an individual or group to oversee I-9 verification process. Most importantly this individual or group should seek to establish uniformity in the I-9 process
  - Conduct yearly self-audits to ensure compliance
  - Conduct regularly scheduled I-9 training, this is especially important for larger organizations

# I-9 Compliance

- Common Questions

- What if a worker didn't actually have work authorization when the I-9 was completed?
- May I ask to see the document with the Alien Number or Admission number?
- May I accept an expired document?
  - Exception, Social Security Cards, Birth Certificates
- Can I accept a photo copy of a document presented by the employee?
- There are three (3) spaces under LIST A for document numbers, do I have to use all three?
- Can I complete Section 1 for the employee?

# Questions??



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