

Office of Personnel Management

Policy

Policy Title: Immigration Reform and Control Act	Policy Number: 70.04
Citation: PL 99-603	Forms: Federal Employment Eligibility Verification Form (I-9)

Purpose

Federal law makes it illegal to knowingly hire or recruit illegal immigrants (immigrants who do not possess lawful work authorization), requires employers to attest to their employees' immigration status, and grants amnesty to certain illegal immigrants who entered the United States before January 1, 1982 and had resided there continuously.

It is unlawful for an employer to discriminate against any individual (other than an unauthorized alien) with respect to the hiring and firing of an individual because of the individual's national origin or because of such individual's citizenship status.

Procedures

State agencies must verify that every person hired after November 6, 1986 is authorized to work in the United States.

Regulations require employers to verify work authorization using the Employment Eligibility Verification Form (Form I-9). To verify work authorization, the employer must examine documents that attest to the identity of the employee or prospective employee as well as his/her eligibility to work in this country.

Acceptable documents that attest to both identity and employment eligibility are:

- United States Passport
- Certificate of United States Citizenship
- Certificate of Naturalization
- Unexpired Foreign passport with attached Employment Authorization
- Alien Registration Card with Photograph

Substitute documents that attest to identity are:

- A State issued driver's license or ID card with a photograph, or information, including name, sex, date of birth, height, weight and color of eyes
- US Military Card

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Substitute documents that attest to employment eligibility are:

- Original Social Security Card
- Birth Certificate
- Unexpired INS Employment Authorization

Employers CANNOT specify which documents they will accept from an employee. The refusal to hire an individual because the documentation has a future expiration date may constitute illegal discrimination.

An employer must NOT ask an individual to complete Section 1 of the form before the individual has accepted a job offer; however, it must be completed no later than the first day of employment.

When an employer is rehiring an individual within three (3) years of the date the Form I-9 was originally completed, they have the option to complete a new form or complete Section 3 of the original form.

The employer must keep the form, signed by the employer and the employee (under oath), for three (3) years after the employee is hired, or for one year after the individual's employment is terminated, whichever is later.

Failure to comply with these requirements may result in both civil and criminal liability with the imposition of substantial fines ranging from \$100 to \$1,000 per hire, as well as possible imprisonment for a pattern or practice of noncompliance. Most importantly, failure to verify a new employee's identity and employment eligibility will result in the termination of employment for that employee.

January 13, 2011