

Fisher Phillips

Immigration Compliance




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Enforcement Efforts

- Department of Homeland Security (DHS) worksite enforcement guidelines for Immigration Customs & Enforcement (ICE).
- Shift of focus from illegal foreign worker to employer that hired worker.
- Goal is to create a culture of compliance.



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FY2014 Immigration Enforcement

- 1,320 Notices of Inspection served.
- 637 Final Orders.
- \$16,206,022 in administrative fines.
- 172 criminal arrests of employers tied to worksite enforcement investigations.
- 190 criminal arrests of employees.
- All industries and businesses, regardless of size, being targeted.




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Section 2 - Documents

- Certify that the documents:
 - reasonably appear to be genuine;
 - relate to the individual; and
 - authorize the individual to work
- Documents examined must be ORIGINALS – not photocopies.



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Section 2: Employer

Section 2. Employer or Authorized Representative Review and Verification
 (Employer or the authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine and document the List of Documents a combination of one document from List A and one document from List B. List C can be filed on being verified, document number and expiration date. For each document you review, record the following information: document title, hearing authority, document number, and expiration date. Page 2.)

Employer Last Name, First Name and Middle Initial from Section 1:

LIST A	OR	LIST B	AND	LIST C
Identity and Employment Authorization	Identity	Identity	Employment Authorization	
Document Title	Document Title	Document Title	Document Title	
Hearing Authority	Hearing Authority	Hearing Authority	Hearing Authority	
Document Number	Document Number	Document Number	Document Number	
Expiration Date of employment(yyyy)	Expiration Date of employment(yyyy)	Expiration Date of employment(yyyy)	Expiration Date of employment(yyyy)	
Document Title				
Hearing Authority				
Document Number				
Expiration Date of employment(yyyy)				
Document Title				
Hearing Authority				
Document Number				
Expiration Date of employment(yyyy)				

ALL REQUIRED
Do Not Write in This Space

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Section 2: Certification

Certification
 I (attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above named employee, (2) the above listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (month/yyyy) _____ (See instructions for exceptions.)

Employer of Employee or Authorized Representative _____ Date (month/yyyy) _____ Title of Employer or Authorized Representative _____

Last Name (Family Name)	First Name (Given Name)	Employer's Business or Organization Name
Employer's Business or Organization Address (Street Number and Name)	City or Town	State Zip Code

- Adds numbers to the things the HR representative must attest to when reviewing the documents
- Separates out the place where the employer is required to insert the employee's first date of work for pay

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Section 3: Re-verification & Rehires

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

A. New Name of Applicant (Last Name (Family Name) First Name (Given Name) Middle Initial B. Date of Birth of Applicant (mm/dd/yyyy)

C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.

Document Title: Document Number: Expiration Date of Employment (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 document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative: Date (mm/dd/yyyy): Print Name of Employer or Authorized Representative:

- Provides clarification that List B identity documents do not require re-verification; and
- Adds a field for the Employer representative to print his/her name

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There are at least 50 valid versions of the Social Security Number Card.

Example 1: UNRESTRICTED SS cards: "Valid for Work Authorization".

Example 2: RESTRICTED SS cards: "Not valid for Employment"; "Valid for work only with INS Authorization" and "Valid for Work only with DHS Authorization".



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Outdated LPR/green card no longer resembles person, not acceptable



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Fisher Phillips Example: Unacceptable ID Documentation

The image shows two examples of unacceptable ID documentation. The top one is a blurry document with a QR code and a barcode. The bottom one is a Costco Executive Member card, which is not an acceptable form of ID for employment verification.

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Fisher Phillips IRCA Prohibited Acts

Cannot:

- Knowingly hire an alien who is not authorized to work
- Hire any individual without verifying identity and work authorization
- Continue employing person if you know **or should know** the person is not authorized to work

The image shows a person's hands being scanned at a security checkpoint, likely an airport or a secure facility, illustrating the concept of verifying identity and work authorization.

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Fisher Phillips Unfair Documentary Practices

- Do not require specific documents or combination of documents.
- Do not require more or different documents than minimally required.
- Do not refuse to accept documents that reasonably appear to be genuine.
- Employee's choice which of the acceptable Form I-9 documents to present.

The image shows a smiling woman with her arms crossed, leaning on a stack of books, representing a fair and reasonable approach to documentation.

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Photocopy Rule

- Copying of documents permitted but not required.
- Even if copy documents, penalty may result if form is not also properly completed.
- Photocopies can be used to correct problems identified during a periodic self-audit or in advance of a government audit.

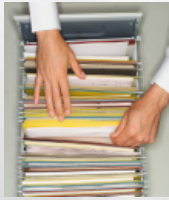


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Retention Requirements

- Once employee terminated, you must retain I-9 form for:
 - At least three years from date of hire; and
 - At least one year from date of termination;
 - Whichever is later.
- Once retention requirements met, purge form.



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Completing I-9s for Deferred Action For Childhood Arrivals

- Unexpired EAD issued to deferred action recipient - acceptable List A document.
- If EAD presented, do not ask for additional proof.
- When EAD expires, employer must re-verify employment eligibility no later than expiration date.
- If existing employee provides DACA EAD or change of information, complete new I-9 with original hire date & attach to previous I-9.



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Things to Remember

- U.S. passports, U.S. passport cards, Permanent Resident Cards, or List B Identity documents should not be re-verified.
- As of April 3, 2009, expired documents may not be accepted (unless they have been automatically extended – such as Temporary Protected Status).
- Social Security card marked “Not Valid for Employment” is not acceptable List C document.



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Monetary Penalties – Recent Increase

- I-9 substantive/uncorrected technical violations range from \$216 to \$2,156 per violation
- Knowing hire/continuing to employ violations range from:
 - \$539 - \$4,313 (1st violation)
 - \$4,313 - \$10,781 (2nd violation)
 - \$6,469 - \$21,563 (Subsequent)



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Protect your Business


- I-9 audit may be foundation for raid, civil money penalties and criminal sanctions.
- Ensure I-9 compliance programs are in place, up-to-date, and followed.
- Conduct regular internal I-9 audits and remedy identified errors.
- Have outside counsel conduct periodic I-9 audits.



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Thank You



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IN THE SPIN | ONE OF WORKS | ONE
