



USCIS Finally Releases New Form I-9

Insights

3.08.13

U.S. Citizenship and Immigration Services (USCIS) announced today the release of the new I-9 Employment Eligibility Verification Form. All employers are required to use the new I-9 immediately to verify the identity and employment authorization eligibility of their employees. Although USCIS requires employers to use the new Form I-9 beginning today, USCIS has provided a 60-day grace period for employers to continue to use the current version of the form issued 08/07/09 (the 02/02/09 version is also still valid) until May 7, 2013. Failure of an employer to ensure proper completion and retention of Forms I-9 may subject an employer to civil money penalties of up to \$1,100 per I-9, and, in some cases, criminal penalties. Although the new two-page Form I-9 mainly contains format changes, additional data fields, and further instructions to the employer, it increases the administrative burden placed on employers.

Here is a section-by-section summary of the changes to the Form I-9:

Section 1: Employer Information and Attestation

Fields are added to list the employee's email address and telephone number, but are optional; and

- For an employee who checks "An Alien Authorized to Work Until...." and who were issued an I-94 card, he or she will also need to list the foreign passport number and country of issuance.

Section 2: Employer Review and Verification

Employers will need to list employee's full name at the top of Page 2;

- List A now has room to list three documents, which is helpful to the employer because the prior form only had room for two documents and there are occasions when three documents are required, e.g., J-1 visa holders or F-1 students completing Optional Practical Training;
- Certification Box - adds numbers to the items the HR representative must attest to when reviewing the documents and separates out the place where the employer is required to insert the employee's first date of work for pay;
- The List of Acceptable Documents, List A, Number 5 has revised language but essentially includes the same information regarding accepting foreign passports and I-94 cards;
- The List of Acceptable Documents, List C, Number 1 provides clarification that Social Security Cards containing restrictions, such as "Not Valid For Employment," "Valid for Work Only with

INS Authorization,” or “Valid for Work Only with DHS Authorization” are not acceptable as List C documents; and

- The List of Acceptable Documents includes a reference to Section 2 of the Handbook for Employers regarding information about acceptable receipts.

Section 3: Reverification & Rehires

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

To avoid discrimination claims, do not complete the new Form I-9 for current employees for whom there is already a properly completed Form I-9 on file, unless reverification applies.

Now is the time to ensure that all your personnel responsible for completing the Form I-9 are trained on the new form. If you have any questions or need additional information, please contact your Fisher Phillips attorney or any member of the Fisher Phillips Global Immigration Practice Group at 404-231-1400.

This Global Immigration Alert is provided as an informational overview of this topic. It is not intended as, nor should it be construed as, legal advice for any particular fact situation.