



# I-9 Playbook



# Introduction

## General I-9 Concepts

The I-9 form is an important document used in the United States to verify the identity and employment authorization of individuals hired for employment.

**The purpose** of the I-9 form is to establish the identity and work eligibility of employees hired in the U.S. It ensures that employers hire individuals who are legally authorized to work and helps prevent unauthorized employment.

The I-9 form must be completed by both the employer and the employee. It is mandatory for all employees, including U.S. citizens, permanent residents, and non-citizens authorized to work in the U.S.



# Completing the I-9 Form

In the US, Employers must complete Form I-9 each time a person is hired and remunerated for services provided. This applies to anyone hired after November 6, 1986.

## What Employers need to do

- ◆ Employers need to ensure that the employee fully completes Section 1 or Form I-9 at the time of hire.
- ◆ Employers need to review the employee's document and complete Section 2 of Form I-9 within 3 business days of the first day of work.
- ◆ If a person is hired for less than 3 business days, Sections 1 and 2 of Form I-9 must be fully completed when the employee begins work.

## Employers DO NOT need to complete a Form I-9 for persons who are:

- ◆ Hired before November 7, 1986, who are continuing in their employment
- ◆ Employed for casual domestic work in a private home on a sporadic, irregular, or intermittent basis.
- ◆ Independent contractors or providing labour through a contractor who provides contract services (e.g., employee leasing or temporary agencies).
- ◆ Not physically working on U.S. soil.



# Section 1

Employers need to ensure that the employee enters correct information in Section 1, with signature and date included. The employee must print the information clearly.

**Note:** If you are an employer participating in the USCIS E-Verify Program, then it requires an employee's Social Security number for employment eligibility verification. Else, providing SSN is voluntary for all employees.

This section includes Employee information and attestation (as shown below) - full name, maiden name, current address, date of birth, city, state, zip code, date of birth, Email, Telephone number. Employee reads warning and attests his/her citizenship or immigration status, signs, and dates the form (not shown below).

Section 1. Employee Information and Attestation <i>(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.)</i>					
Last Name (Family Name)		First Name (Given Name)		Middle Initial	Other Last Names Used (if any)
Gaydos		Larry		P	N/A
Address (Street Number and Name)			Apt. Number	City or Town	State ZIP Code
3770 Meadow Drive			12	Oklahoma City	OH 73107
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number		Employee's E-mail Address		Employee's Telephone Number
02/12/1985	[ ] [ ] - [ ] [ ] - [ ] [ ] [ ] [ ]		larryp@gmail.com		405-945-1764
<p>I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.</p> <p>I attest, under penalty of perjury, that I am (check one of the following boxes):</p>					
<input checked="" type="checkbox"/> 1. A citizen of the United States					
<input type="checkbox"/> 2. A noncitizen national of the United States <i>(See instructions)</i>					
<input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]					
<input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] Some aliens may write "N/A" in the expiration date field. <i>(See instructions)</i>					
Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.					QR Code - Section 1 Do Not Write In This Space
1. Alien Registration Number/USCIS Number: [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]					
OR					
2. Form I-94 Admission Number: [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]					
OR					
3. Foreign Passport Number: [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]					
Country of Issuance: [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]					
Signature of Employee				Today's Date (mm/dd/yyyy)	

If the employee needs assistance to complete Section 1, a translator or preparer can assist in completing it. The preparer or translator must then complete the Preparer/ Translator Certification block on Form I-9 (shown below).

Preparer and/or Translator Certification (check one):			
<input type="checkbox"/> I did not use a preparer or translator.		<input checked="" type="checkbox"/> A preparer(s) and/or translator(s) assisted the employee in completing Section 1.	
<i>(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)</i>			
I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.			
Signature of Preparer or Translator		Today's Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)	
Hopkins		John	
Address (Street Number and Name)	City or Town	State	ZIP Code
1349 Memory Lane	Sycamore	IA	60178

## Section 2

The Employer Review and Verification comprises Section 2 of the I-9 Form. The employee needs to present original documents from one of the lists mentioned on the last page of the I-9 Form. These documents will establish identity and employment authorization. This needs to be done within 3 business days of the date employment begins.

As an employer, you are not allowed to dictate the specific documents an individual must submit for Form I-9. The person attesting to the documents has the option to provide either one selection from List A or a combination of List B and List C. It is recommended by regulatory authorities that employees should be given the freedom to present their preferred documents if they meet the requirements for verifying their eligibility for employment.

### The Form I-9 documents are segregated into three Lists (A, B and C).

- ◆ List A documents: These documents establish both identity and employment authorization.
- ◆ List B documents: These documents establish the identity of the employee.
- ◆ List C documents: These documents establish the employment authorization.



# List A documents based on the categories of individuals

As the documents in this list establish both the identity and employment authorization of the employee, it serves the purpose. Since some of these documents are a combination of 2 or more documents, such documents presented together count as one List A document.

## A lawful permanent resident has to submit one of the following documents:

- ◆ Permanent Resident Card (Form I-551) or Alien Registration Receipt Card (Form I-551)
- ◆ Foreign passport containing a Form I-551 stamp or Form I-551 printed notation on a Machine Readable Immigrant Visa (MRIV)

## A US citizen (or) A non-citizen national of the US has to submit one of the following document(s):

- ◆ US Passport or US Passport Card

## An alien authorized to work has to submit one of the following documents:

- ◆ Employment Authorization Document that contains a photograph (Form I-766)
- ◆ Foreign passport with Form I-94 or Form I-94A with Arrival-Departure Record, and containing an endorsement to work (for a Non-immigrant alien authorized to work for a specific employer because of his or her status)
- ◆ Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A



# List B documents based on the categories of individuals

**A US citizen (or) A non-citizen national of the US (or) A lawful permanent resident (or)an alien authorized to work** has to submit one of the following documents (along with one from the List C of acceptable documents given below).

- ◆ Driver's license (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)
- ◆ 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)
- ◆ School ID card with a photograph
- ◆ Voter's registration card
- ◆ S. Military card or draft record
- ◆ Military dependent's ID card
- ◆ S. Coast Guard Merchant Mariner (MMD) Card
- ◆ Native American tribal document
- ◆ Driver's license issued by a Canadian government authority

**For persons under the age of 18 and who cannot present a document from the above-mentioned list of documents**

- ◆ School record or report card
- ◆ Clinic, doctor, or hospital record
- ◆ Day-care or nursery school record

# List C documents based on the categories of individuals

**A US citizen(or)A non-citizen national of the US** has to submit one of these List C documents

- ◆ U.S. Social Security account number card\* that is unrestricted. A card that includes any of the following restrictive wording is not an acceptable List C document:
  - ◆ NOT VALID FOR EMPLOYMENT
  - ◆ VALID FOR WORK ONLY WITH INS AUTHORIZATION
  - ◆ VALID FOR WORK ONLY WITH DHS AUTHORIZATION
- ◆ Certification of Birth Abroad (Form FS-545)
- ◆ Certification of Report of Birth (Form DS-1350)



- ◆ Consular Report of Birth Abroad (Form FS-240)
- ◆ Original or Certified Copy of Birth certificate issued by a state, county, municipal authority, or outlying territory of the United States bearing an official seal.
- ◆ Native American Tribal Document
- ◆ US Citizen ID Card (Form I-197)
- ◆ Identification Card for the use of Resident Citizen in the United States (Form I-179)
- ◆ Employment Authorization Document issued by the U.S. Department of Homeland Security (DHS)

### **A Lawful permanent resident (or) An alien authorized to work has to submit one of these List C documents.**

- ◆ U.S. Social Security account number card\* that is unrestricted. A card that includes any of the restrictive wording is not an acceptable List C document:
- ◆ Native American Tribal Document
- ◆ Employment Authorization Document issued by the U.S. Department of Homeland Security (DHS)

For examples, refer to [Handbook for Employers \(M-274\)](#) published by the USCIS.

### **\*Unrestricted Social Security cards that are acceptable List C documents are only issued to:**

- ◆ U.S. citizens
- ◆ Noncitizen nationals of the U.S.
- ◆ Lawful permanent residents
- ◆ Refugees
- ◆ Asylees
- ◆ Citizens of the Republic of Marshall Islands, the Federated States of Micronesia, or the Republic of Palau admitted under a Compact of Free Association
- ◆ Canadian-born American Indians
- ◆ Mexican-born Kickapoo Indians





# Re-verification

## For Current Employees

When an employee's authorization for employment reaches its expiration date, it is necessary to reverify their eligibility.

- ◆ Re-verification of current employee can be done by utilizing Section 3 of Form I-9. However, if Section 3 has already been utilized for a prior reverification or update, it is acceptable to use a new Form I-9. In such cases, the employee's name should be written in Section 1, Section 3 should be completed, and the new form should be kept alongside the original.
- ◆ If the employee is unable to provide valid evidence of their current employment authorization, such as a document from List A or List C, which includes an unrestricted Social Security card, it is not permissible to continue employing that individual.
- ◆ To maintain uninterrupted employment authorization, an employee who possesses temporary employment authorization should ensure timely submission of either a new employment authorization application or an extension of stay before their current document or authorized period of stay expires.
- ◆ If the employee has been granted authorization to work for a specific employer and has submitted an application for an extension of stay, they are allowed to continue working with the same employer for a maximum of 240 days beyond the expiration date of their authorized period of stay.
- ◆ During the reverification process, the employee must present a document that demonstrates either an extension of their initial employment authorization or new employment authorization.
- ◆ In the event that an employee has timely filed an application for a new employment authorization document (Form I-766) and the United States Citizenship and Immigration Services (USCIS) fails to make a decision on the application within 90 days, the employee will be granted an employment authorization document that remains valid for a period of up to 240 days.

**Note:** The verification of an employee's employment authorization on Form I-9 must be conducted before the expiration date of their current employment authorization.



## For Re-hired Employees

Upon rehiring an employee, it is essential to verify that they still possess the authorization to work. There are two options to accomplish this:

◆ Complete a new Form I-9 for the employee

OR

◆ Conduct reverification or update on the original form by completing Section 3.

If you decide to rehire an employee who has previously completed a Form I-9, there are specific conditions under which you can conduct reverification. You have the option to either reverify on the original Form I-9 or use a new Form I-9 if Section 3 of the original form has already been utilized. This is applicable if:

- ◆ The rehiring takes place within 3 years from the initial date of hire, and
- ◆ The employee's previous employment authorization has expired, but they now possess a new grant of employment authorization, making them eligible to work, or
- ◆ The employee remains eligible to work under the same conditions as when the initial Form I-9 was completed.

For the purpose of reverification, the following steps should be followed:

- ◆ Document the date of rehire.
- ◆ Record the details of the document(s) presented by the employee, including document title, number, and expiration date if applicable.
- ◆ Sign and date Section 3 of the Form I-9.
- ◆ If using a new Form I-9 for reverification, write the employee's name in Section 1.

When updating the original form, the following steps are required:

- ◆ Record the date of rehire and, if applicable, the employee's new name.
- ◆ If opting to update on a new Form I-9, write the
- ◆ Sign and date Section 3 of the Form I-9.

Alternatively, when rehiring employees, you have the option to complete Sections 1 and 2 on a new Form I-9 instead of filling out Section 3.



# Record keeping

Employers are obligated to possess a fully completed Form I-9, known as Employment Eligibility Verification, for every individual included in their payroll or receiving remuneration, as mandated by the form's requirements. Additionally, employers are required to retain these completed Forms I-9 for a specific duration after their employees cease working for them.

Employers are required to keep the completed Forms I-9 for all employees.

- ◆ These forms should be retained for a period of 3 years from the date of hire or 1 year from the date of employment termination, whichever is later.
- ◆ It is permissible to store these forms in various formats, including paper, microfilm, microfiche, or electronically.
- ◆ Regardless of the chosen storage method, employers must be prepared to present these forms for inspection by government officials within three business days of the request date.



Officials from the Department of Homeland Security, as well as employees from the Immigrant and Employee Rights Section (IER) at the Department of Justice, and the Department of Labor, have the authority to request and examine Form I-9 records.

It's important to note that Form I-9 contains personal employee information. To ensure the security and privacy of this information, USCIS advises employers to implement suitable measures to safeguard employee data when storing these forms, regardless of the chosen format.

# Avoid these Common Mistakes



## Not using the latest I-9 Form

Before you begin, check for the latest version of the I-9 form on the USCIS site. Use the USCIS Handbook for Employers M-274 as the main source of I-9 compliance information and instruction. It is mandatory to make the 15-page instruction document and List of Acceptable Documents (page 3 of the Form I-9) available to employees (in print or electronically) before they complete Section 1 of the form.



## Not following the prescribed timelines

Make sure your employees complete Section 1 on their first day of employment and you as an employer must complete Section 2 within 3 days from the start date of employment.



## Leaving blank fields

Fields that are not applicable must be marked N/A. No field in the I-9 forms should be left blank. Paper forms tend to have more errors and blanks than electronic forms. For effective I-9 compliance, switch to electronic I-9 verification software that notifies you of blank fields or other errors.



## Not following retention guidelines

After the statutory retention period, make sure you eliminate records of terminated employees. When employment ends, employers must retain the Form I-9 for three years after the employee's first day of work for pay or one year from the date of termination, whichever is later.



## Not reverifying foreign nationals

Make sure you reverify foreign nationals with temporary work authorization before their work authorization expires.



## Rehiring after 3 years – not following process

If a rehiring occurs more than three years after the initial completion of Form I-9, a new Form I-9 must be generated. In this situation, the employee is required to complete a new Form I-9 and present valid, unexpired documents for Section 2 completion.





### **Not filling Section 3 properly**

Section 3 can be utilized for reverification and rehire purposes. If a rehire occurs within a three-year timeframe, you have the option to either complete Section 3 on the employee's previously completed Form I-9 or fill out a new Form I-9 for this purpose.



### **Not verifying documents in person**

It is important to personally verify all I-9 documents to ensure their authenticity and relevance to the employee being verified. Do not accept faxed or scanned documents for I-9 purposes, pay attention to their expiration dates and never accept expired documents. For remote hires, appoint an agent who can verify on your (Employer's) behalf.



### **Asking employees for specific documents**

Never ask employees for a particular document like a Green card or passport. Allow the employees to choose from the list of acceptable documents. Requesting more or different documentation counts as discriminatory/ unfair immigration-related employment practice.



### **Not conducting regular I-9 Audits**

Designate a trained resource exclusively to oversee the I-9 process. Make sure this resource conducts regular I-9 audits and checks to periodically check preparedness in case of a real audit by DOL.



# I-9 Audit Checklist

Employers can maintain a practice of conducting periodic internal I-9 audits, to be in a state of preparedness when an audit takes place. You can find and fix the gaps in documentation or information related to I-9 forms.

1. Download the current version of the I-9 Form.
2. Make a list of all current employees
3. Make a list of employees terminated in the last three years
4. Collate and verify existing copies of all I-9 forms (electronic or physical) for current employees and those that were terminated within retention requirements.
5. Separate correct and completed forms into one bundle, and those with errors into another category.
6. For forms with errors:
  - ◆ Any changes should be clearly shown as a correction. Use a different colored ink, draw a line through incorrect information, and initial and date the changes to make sure it's obvious.
  - ◆ Major errors, such as entire sections left blank or based on unacceptable documents, may require a new Form I-9 to be completed.
7. For missing I-9 forms, communicate with employees and get them to fill in the relevant section with necessary documentation.
8. Maintain an audit log by documenting steps and amendments made.
9. Repeat this for the next audit.



# Common mistakes in I-9 Sections

## Section 1

- Incomplete or missing name, other names used (such as maiden name), address or date of birth.
- Missing A-number/USCIS Number after selecting “A Lawful Permanent Resident.”
- Missing A-Number/USCIS Number or Form I-94 admission number after selecting “An alien authorized to work until.”
- Missing signature or date.
- Failure to identify immigration status.
- Not checking the box “I did not use a preparer or translator” (if applicable).

## Section 2

- Documents listed under the wrong column.
- Incomplete information for each document.
- Missing business title, name, or address.
- Missing date of employment/hire.
- Representative of the organization fails to sign and date form.

## Section 3

- Failure to enter the date of rehire.
- Failure to enter an employee’s new name.
- Failure to sign and date your name in the form.



# Electronic Form I-9 Systems

In order to store Forms I-9 electronically, employers have the flexibility to utilize electronic recordkeeping, attestation, and retention systems that adhere to the standards set by the Department of Homeland Security (DHS). This includes a wide range of commercially available off-the-shelf computer programs and commercial automated data processing systems.

However, it is crucial to ensure that the chosen system is not bound by any agreements that would limit or impede access and utilization by any agency of the United States.

Completed I-9 Forms can be stored in electronic storage systems that follow these safeguards:

- ◆ Implement effective measures to ensure the integrity, accuracy, and reliability of the electronic storage system in a reasonable manner.

- ◆ Establish suitable safeguards to prevent and identify any unauthorized or accidental modifications, additions, deletions, or deterioration of electronically completed or stored Form I-9, including the electronic signature, if applicable.

- ◆ Develop an inspection and quality assurance program that conducts regular assessments of the electronic generation or storage system, including periodic checks of electronically stored Forms I-9, along with the electronic signature, if utilized.

- ◆ Utilize a retrieval system that incorporates an indexing mechanism enabling searches based on any data element.

- ◆ Ensure the capability to produce clear and readable paper copies when required.





# Penalties and Other Risks

The administrative inspection process commences by serving an employer with a Notice of Inspection (NOI). The employer is granted a minimum of three business days to provide the requested Form(s) I-9 as specified in the NOI. Additionally, ICE may request supporting documents such as payroll records, a roster of current and former employees, incorporation papers, and business licenses. Upon the employer's submission of the requested Form(s) I-9 in response to the NOI, ICE agents and/or auditors conduct an inspection to ensure compliance.

**If technical or procedural deficiencies are identified**, the employer is given a minimum of 10 business days to rectify these issues, as per INA §274A(b)(6)(B) (8 U.S.C. § 1324a(b)(6)(B)).

- ◆ Monetary penalties may be imposed on employers for substantive violations and unaddressed technical or procedural failures.
- ◆ Employers who knowingly hire or continue to employ unauthorized workers, as defined in INA § 274A(a)(1)(a) or (a)(2) (8 U.S.C. § 1324a(a)(1)(a) or (a)(2)), must cease the unlawful activity and may face civil fines and/or criminal prosecution.
- ◆ Additionally, ICE has the authority, under 48 C.F.R. § 9.406-2(b)(2), to impose debarment on employers who knowingly hire or continue to employ unauthorized workers.

Following the completion of an inspection on an employer's Form(s) I-9 and relevant supporting documentation, ICE will communicate its findings through written notices, which include the following:

1. **Notice of Inspection Results (Compliance Letter):** This notice confirms that the business is compliant with the applicable requirements for employee eligibility verification.
2. **Notice of Suspect Documents:** Informs the employer that, based on the review of Form(s) I-9 and submitted documentation, ICE has determined that the presented documents by the employee(s) are unrelated or invalid for employment purposes. The notice explains the potential criminal and civil penalties for employing unauthorized workers and provides an opportunity for the employer and employee(s) to provide additional documentation demonstrating valid U.S. work authorization if they believe the determination is incorrect.

3. **Notice of Discrepancies:** Notifies the employer that ICE was unable to determine the eligibility of the employees to work in the U.S. based on the review of Form(s) I-9 and related documentation submitted by the employee(s). The employer should share a copy of the notice with the employee(s) and offer them an opportunity to present additional documentation establishing valid U.S. work authorization.
4. **Notice of Technical or Procedural Failures:** Identifies technical or procedural failures discovered during the inspection of Form(s) I-9 and grants the employer at least ten business days to rectify the identified issues. Failure to correct these failures within the designated period will result in them being treated as substantive violations
5. **Warning Notice:** Issued when substantive verification violations are identified, but there is an expectation of future compliance by the employer. However, certain circumstances exclude the issuance of a Warning Notice, such as previous receipt of a Warning Notice or Notice of Intent to Fine, failure to correct technical or procedural failures within the given timeframe, 100% failure to prepare and present Form(s) I-9, hiring unauthorized workers due to substantive violations, or evidence of fraud in the completion of Form I-9 (e.g., backdating) by the employer.
6. **Notice of Intent to Fine (NIF):** This notice may be issued for substantive violations, uncorrected technical or procedural failures, knowingly hiring violations, and/or continuing to employ violations.

If a Notice of Intent to Fine (NIF) is issued, the employer will be provided with charging documents that outline the alleged violations. According to the provisions of 5 U.S.C. §§ 554-557, the employer has the right to request a hearing before an Administrative Law Judge at the Office of the Chief Administrative Hearing Officer (OCAHO). This request must be submitted within 30 calendar days of receiving the NIF.

Failure to submit a timely written request for a hearing will result in the issuance of a Final Order by ICE, which cannot be appealed. However, if a written request for a hearing is received on time, the employer has the option to engage in settlement negotiations with ICE regarding the charges or fines before the scheduled hearing at OCAHO. If an agreement is reached between the employer and ICE, ICE will not proceed with filing a complaint at OCAHO. However, if an agreement is not reached, ICE will proceed with filing a complaint at OCAHO.



# Penalties

Penalties for knowingly employing or continuing to employ, and in certain cases, recruiting or referring unauthorized aliens to work in the United States are as follows:

- ◆ **First offense:** Fines range from \$375 to \$3,200 per unauthorized alien.
- ◆ **Second offense:** Fines range from \$3,200 to \$6,500 per unauthorized alien.
- ◆ **Third offense:** Fines range from \$4,300 to \$16,000 per unauthorized alien.

Employers engaged in a “pattern of practice” may face more severe penalties, including fines up to \$3,000 per unauthorized alien, even for a first offense, and potential imprisonment.

Moreover, “paperwork” violations, such as failure to complete or maintain I-9 Forms for all employees hired after November 5, 1986, result in fines ranging from \$110 to \$1,100 per employee, irrespective of whether the employee was unauthorized or not.

The government has the authority to prosecute employers and their managers for crimes related to the employment of unauthorized workers. These crimes carry significant penalties, including federal prison sentences of five years or more and substantial fines. Unlawful “harboring” covers a range of actions, from assisting a known illegal alien to enter the U.S. to encouraging someone to reside in the U.S. with reckless disregard for their immigration status. Other federal crimes include transporting, housing, and knowingly hiring 10 or more aliens with the actual knowledge that they were brought to the United States illegally, creating, providing, using, or accepting false documents, and utilizing false social security numbers.

<https://www.bakerdonelson.com/i-9-procedures-and-penalties>





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