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# Current State of Immigration Issues In The Workplace—I-9, ICE, and What You Should Know



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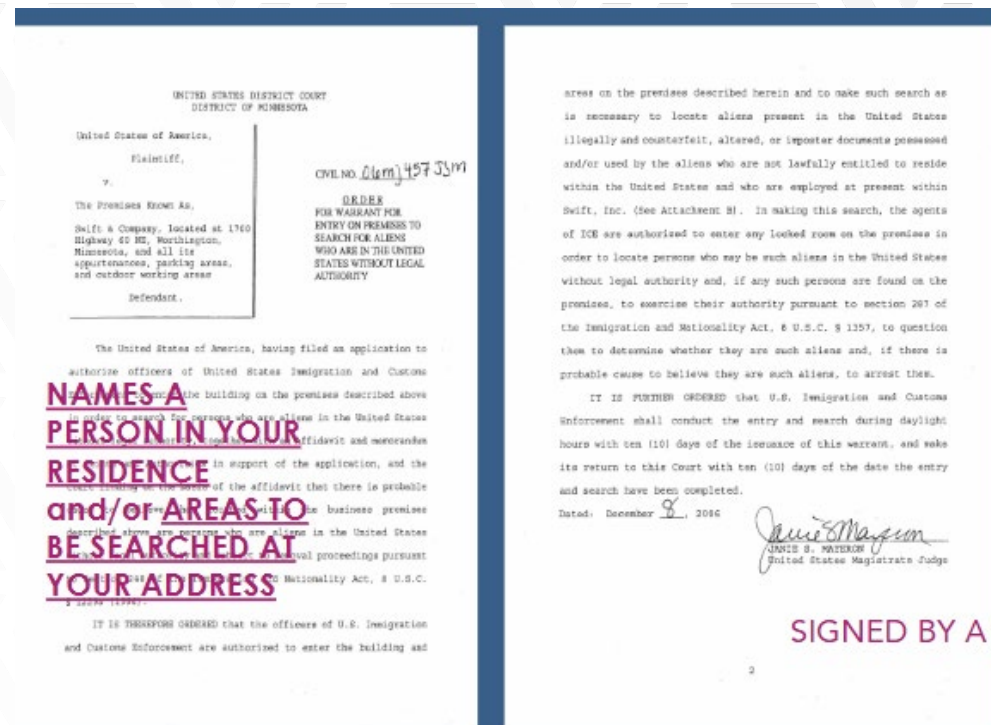
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# What is Happening?

- Since President Donald Trump resumed office on January 20, 2025, his administration has intensified immigration enforcement, particularly through increased U.S. Immigration and Customs Enforcement (ICE) raids. Key developments include:
  - » Nationwide Enforcement Operations: On January 26, 2025, the administration launched a comprehensive immigration enforcement operation involving multiple federal agencies. This initiative led to numerous arrests across various cities.
  - » Policy Changes: The administration has rolled back previous directives that limited immigration enforcement in sensitive areas such as hospitals, places of worship, and schools, thereby broadening the scope of potential enforcement actions.
  - » Economic and Social Impacts: These operations have impacted businesses reliant on immigrant labor.

# What protections are available?

- **Senate Bill 54 – “California Values Act” (effective Jan 1, 2018)**
  - » Bars local law enforcement from assisting Federal Immigration Enforcement
  - » There are exceptions (i.e., individual has a criminal record)
- **Employers and employees have rights under law, regardless of status**
  - » 4<sup>th</sup> Amendment – protects people against unreasonable search and seizure of their home, person and belongings
  - » 5<sup>th</sup> Amendment – right to remain silent
- **Worksite Raids** must be accompanied by a Judicial Warrant signed by a judge and give a specific scope of search and seizure.
- <https://www.nilc.org/resources/a-guide-for-employers-what-to-do-if-immigration-comes-to-your-workplace/>



# Individual Rights

## 4<sup>th</sup> Amendment Magic Words: Am I free to go?

If yes, walk away calmly. If no, detained.

Can only detain if they have reasonable suspicion  
*(don't give any info that could lead to discriminatory suspicion (i.e. birth country))*

## 5<sup>th</sup> Amendment Magic Words: I want to remain silent

CA does not have a “stop and identify” law

- An administrative warrant authorizes an ICE agent to make an arrest or seizure, **but not to search**
- An ICE warrant does not authorize an ICE agent to enter a private space or home without consent
- An ICE warrant does not provide probable cause of a crime or meet Fourth Amendment requirements for arrest

The image shows a sample of a U.S. Department of Homeland Security Warrant for Arrest of Alien. The form includes fields for File No., Date, and To: Any Immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations. It also contains a section for the officer's determination of probable cause, with checkboxes for various reasons such as the execution of a charging document, ongoing removal proceedings, failure to establish admissibility, and biometric confirmation. The form concludes with a signature line for the Authorized Immigration Officer and a Certificate of Service section.

ISSUED BY ICE

SIGNED BY AN ICE OFFICE

# Resources

## Know Your Rights

- <https://www.aclusocal.org/en/know-your-rights>

## Know your rights when stopped

- <https://www.aclusocal.org/en/know-your-rights/when-stopped-officer>
- <https://www.aclusocal.org/es/know-your-rights/si-lo-detiene-un-oficial>

## Know your rights if questioned by police, FBI, customs agents or immigration officers

- <https://www.aclusocal.org/en/know-your-rights/if-questioned-police-fbi-customs-agents-or-immigration-officers>
- <https://www.aclusocal.org/es/know-your-rights/que-debe-hacer-si-la-policia-un-agente-de-immigracion-o-el-fbi-lo-detiene>

## Know your rights when stopped by federal agents

- <https://www.aclusocal.org/en/know-your-rights/when-stopped-federal-agents>
- <https://www.aclusocal.org/es/know-your-rights/si-lo-detiene-un-agente-federal>

# ICE Raid vs. ICE Audit

- ICE Raid
  - » A surprise enforcement action where U.S. Immigration and Customs Enforcement (ICE) agents enter a workplace, home, or public area to detain individuals suspected of being undocumented.
  - » Often involves arrests and detainment for possible deportation.
  - » Can target specific individuals or a group based on an ongoing investigation.
  - » Typically, there is no prior warning to the employer or individuals.
- ICE Audit (I-9 Audit)
  - » A review of an employer's records (specifically I-9 employment eligibility forms) to ensure that all employees are legally authorized to work in the U.S.
  - » Employers usually receive a Notice of Inspection (NOI) before the audit begins.
  - » If violations are found, the employer may face fines, penalties, or be required to terminate employees who lack proper documentation.
  - » Unlike a raid, an audit does not immediately result in arrests or deportations.

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# Worksite Investigations



U.S. Immigration  
and Customs  
Enforcement

# Why Would ICE Be At The Worksite?

- ICE may come to the worksite to:
  - » Start an I-9 audit (Document will be called “Notice of Inspection”);
  - » Workplace raid – **must have a judicial warrant**;
  - » Detain a specific person – **must have a judicial warrant**.



# Training Staff on Raids

- Develop a Rapid Response Plan so all company representatives are familiar with what to do if ICE comes to the workplace with or without a warrant.
- Designate one person who will be responsible for speaking to and coordinating with ICE agents. Let all employees know who this person is and ensure all documents and contact requests are directed to that person.
- Tell staff they do not have authority to permit ICE agents onto the property. “I can’t give you permission, its not within my authority, please go to the office at: [Address].”

# ICE Access & Activity

- ICE may enter a private workplace only if they have a warrant. It will be signed by a judge and have a court's name on top.
- Have the designated individual review the warrant to confirm that the warrant is valid.
- Without a warrant, ICE needs an employer's permission to enter private areas. (Another reason to check "No Trespassing" signs.)
- If ICE says they have a warrant, ask for a copy and read it.
- Make sure ICE complies with exactly what is written in the warrant and monitor their activity on site.
- Do not release any information about clients, staff, or others unless judicial warrant specifically requires you to do so.
- Follow ICE agent during inspection and document everything that was reviewed, accessed or seized.
- Running away could give ICE a legal reason to arrest workers.
- Employees have the right to stay silent and ask to talk to a lawyer.

# Documenting the Encounter

- Follow ICE agent during inspection
- Document everything that was reviewed, accessed or seized.
  - » Date and Time
  - » Number and names/badge numbers of officers. Take pictures
  - » Who did the officer say they were there for and from what agency
- If you are able to record a video from a safe distance, announce that you are recording a video



**START HERE:** Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [Instructions](#).

**ANTI-DISCRIMINATION NOTICE:** All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in Section 1, or specify which acceptable documentation employees must present for Section 2 or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

**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
Date of Birth (mm/dd/yyyy)		U.S. Social Security Number		Employee's Email Address		Employee's Telephone Number

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.

Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):

1. A citizen of the United States

2. A noncitizen national of the United States (See Instructions.)

3. A lawful permanent resident (Enter USCIS or A-Number.)

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 [Preparer and/or Translator Certification](#) on Page 3.

**Section 2. Employer Review and Verification:** Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box; see instructions.

	List A	OR	List B	AND	List C
Document Title 1					
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 2 (if any)	Additional Information				
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 3 (if any)					
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					

Check here if you used an alternative procedure authorized by DHS to examine documents.

**Certification:** I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears 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.

Last Name, First Name and Title of Employer or Authorized Representative		Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)
Employer's Business or Organization Name		Employer's Business or Organization Address, City or Town, State, ZIP Code	

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

# Form I-9 Mechanics

# **Who can Work in the U.S.**

- Citizens of the United States
- Noncitizen Nationals of the United States
- Lawful Permanent Residents
- Non-citizen Authorized to Work

# **Form I-9 Basic Requirements**

- Section 1 - completed by employee no later than start date of employment.
- Section 2 - completed by employer by end of third business day after employee starts work.
- May complete form prior to start date if offer of employment is made and accepted.

# Discrimination and Unfair Documentary Practices

- **Employers MUST refrain from discriminating** against individuals on the basis of actual or perceived national origin, citizenship or immigration status
- 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.

# Completing Form I-9

## Form I-9

**Employment Eligibility Verification**  
 Department of Homeland Security  
 U.S. Citizenship and Immigration Services

**USCIS Form I-9**  
 OMB No. 1611-0047  
 Expires 08/31/2026

**START HERE:** Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [instructions](#).

**ANTI-DISCRIMINATION NOTICE:** All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in Section 1, or specify which acceptable documentation employees must present for Section 2 or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

**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 \_\_\_\_\_

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.

Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):

1. A citizen of the United States  
 2. A noncitizen national of the United States (See instructions.)  
 3. A lawful permanent resident (Enter USCIS or A-Number.) \_\_\_\_\_  
 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 [Preparer and/or Translator Certification](#) on Page 3.

**Section 2. Employer Review and Verification:** Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box. See instructions.

Document Title	List A	List B	AND	List C
Document Title 1				
Issuing Authority				
Document Number (if any)				
Expiration Date (if any)				
Document Title 2 (if any)	Additional Information			
Issuing Authority				
Document Number (if any)				
Expiration Date (if any)				
Document Title 3 (if any)				
Issuing Authority				
Document Number (if any)				
Expiration Date (if any)				

Check here if you used an alternative procedure authorized by DHS to examine documents.

**Certification:** I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears 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.

Last Name, First Name and Title of Employer or Authorized Representative \_\_\_\_\_ Signature of Employer or Authorized Representative \_\_\_\_\_ Today's Date (mm/dd/yyyy) \_\_\_\_\_

Employer's Business or Organization Name \_\_\_\_\_ Employer's Business or Organization Address, City or Town, State, ZIP Code \_\_\_\_\_

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

## Lists of Acceptable Documents

**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 Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card		1. 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		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. 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		2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph		3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card		4. Native American tribal document
5. For an individual temporarily authorized to work for a specific employer because of his or her status or parole: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) 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.		5. U.S. Military card or draft record		5. U.S. Citizen ID Card (Form I-197)
		6. Military dependent's ID card		6. Identification Card for Use of Resident Citizen in the United States (Form I-179)
		7. U.S. Coast Guard Merchant Mariner Card		7. Employment authorization document issued by the Department of Homeland Security For examples, see <a href="#">Section 7</a> and <a href="#">Section 13</a> of the M-274 on <a href="#">uscib.gov/i-9-central</a> The Form I-766, Employment Authorization Document, is a List A, Item Number 4, document, not a List C document.
		8. Native American tribal document		
		9. Driver's license issued by a Canadian government authority		
		10. School record or report card		
		11. Clinic, doctor, or hospital record		
		12. Day-care or nursery school record		
<b>Acceptable Receipts</b>				
May be presented in lieu of a document listed above for a temporary period. For receipt validity dates, see the M-274.				
• Receipt for a replacement of a lost, stolen, or damaged List A document.	OR	• Receipt for a replacement of a lost, stolen, or damaged List B document.		• Receipt for a replacement of a lost, stolen, or damaged List C document.
• Form I-94 issued to a lawful permanent resident that contains an I-551 stamp and a photograph of the individual.				
• Form I-94 with "RE" notation or refugee stamp issued to a refugee.				

\*Refer to the Employment Authorization Extensions page on [I-9 Central](#) for more information.



# Section 2: Examining Documents

- You must accept a document presented by an employee if it reasonably appears to be:
  - » Genuine
- AND**
- » Relates to the individual presenting it

The document must be original – photocopies are NOT acceptable, except for a certified copy of a birth certificate




## Section 2: Copying Documents

- You may choose to copy and retain the documents employees present for Section 2. If you choose to photocopy documents:
  - » You must do so for **ALL** employees
  - » Retain only those documents used for I-9
- **E-Verify employers** must photocopy the following documents if voluntarily provided by the employee for Form I-9 Section 2:
  - » U.S. Passport or Passport Card
  - » I-551 Lawful Permanent Resident Card
  - » I-766 Employment Authorization Document

# Supplement B: Reverification and Rehires

- Employers **MUST** reverify an employee using Form I-9, Supplement B, if their temporary employment authorization status or temporary employment authorization document has expired
- You **may** also complete Supplement B if you:
  - » **Rehire** the employee within 3 years of the original date of employment
  - » Update the employee's **biographic information**
- \* Do not create a new E-Verify case for an existing employee you are reverifying



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 08/31/2026

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)	New Name (if applicable)		
Date (mm/dd/yyyy)	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)
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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.)

Check here if you used an alternative procedure authorized by DHS to examine documents.

# Supplement B: When to Reverify on Form I-9



## Reverify

- An Employment Authorization Document (Form I-766) with an expiration date
- Form I-94 with temporary I-551 stamp
- Unexpired foreign passport with temporary I-551 stamp

## Do not Reverify

- U.S. citizens and noncitizen nationals
- U.S. passports or passport cards
- Unexpired Permanent Resident or Alien Registration Receipt card (Form I-551)
- Expired Permanent Resident Card presented with Form I-797
- [List B](#) documents

# Correcting Form I-9

- **Correcting Mistakes**

- If you discover a mistake on Form I-9, correct the existing form
  - » Section 1 – **Employee** makes corrections.
  - » Section 2 – **Employer** makes corrections.
- Strike a line through errors – do not use White Out or Liquid Paper. Must be **transparent. Do NOT backdate.**
- All corrections should be initialed/name written, dated, and include the words “Per Self Audit” by the internal company I-9 auditor

# Storage

**You must have a Form I-9 on file for all current employees:**

- **Keep I-9s separate from personnel files**
- Store Forms I-9 securely in a way that meets your business needs – on site, off-site, storage facility
- If saving electronically, be sure that electronic system complies with USCIS electronic storage requirements
- Store copies of documents with the Form I-9
- Ensure that only authorized personnel have access to stored Forms I-9
- Make sure I-9s are able to be produced within three days of an audit

# Retention

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

Once retention requirements met, purge form.

## Calculate how long to retain an employee's Form I-9 once they end employment:

- If they worked for less than two years, retain their form for three years after the date you entered in the First Day of Employment field.
- **OR**
- If they worked for more than two years, retain their form for one more year after the date they stop working for you.

## EXAMPLES:

John Smith (Hired Nov. 1, 2019, terminated May 5, 2020): John worked for less than 2 years, keep his form for 3 years, until 11/01/2022

Betsy Ross (Hired Nov. 1, 2002, terminated May 5, 2020): Betsy worked for more than 2 years, keep her form for one more year, until 05/05/2021

# Automatic EAD Extension

- **540-day automatic extension.** On Dec. 13, 2024, the Department of Homeland Security published a final rule that permanently increases the automatic extension period for employment authorization and Employment Authorization Documents (EAD) available to certain EAD renewal applicants from up to 180 days to up to 540 days.
- The final rule became effective on Jan. 13, 2025 and applies to certain timely filed renewal EAD applications pending on or filed on or after May 4, 2022.





# Compliance Tips for Employers

# 8 Best Practices for Employers to Maximize Compliance

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The Form I-9 remains deceptively simple. Any time a one-page form requires eight pages of instructions, two supplements, a 146-page handbook on how to complete the form, and the potential for significant monetary and criminal penalties, it will continue to present a significant compliance challenge for employers.

Here are eight steps you can take to create a culture of compliance:

1. Provide updated training for all managers, human resources personnel, and staff involved in the I-9 process;
2. Provide updated training for all involved in the E-Verify process, including training on fraud awareness and anti-discrimination;
3. Update immigration policies in handbooks;
4. If your company does not have an immigration compliance policy, now is the right time to consider implementing one;
5. Update internal business processes associated with I-9s and E-Verify;
6. If your company uses an electronic I-9 provider, contact the provider now to ensure its system incorporates the new changes and complies with [DHS requirements](#), including audit trails;
7. Enlist outside immigration counsel to conduct an attorney-client privileged audit of your I-9s
8. Evaluate E-Verify advantages and disadvantages with your immigration counsel to determine if your company should take advantage of the remote verification option for E-Verify employers.

# Best Practices When Employees Provide Updated Information

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- In complying with the new Form I-9 and review requirements, remember that California Labor Code section 1024.6 still applies.
- Under California Labor Code section 1024.6, employees have a **protected right** to update their personal information, including a lawful change of name, Social Security number, or federal employment authorization document.
- Specifically, employers cannot fire, discriminate, retaliate or take any adverse action against an employee for updating or attempting to update their personal information.
- Examples of prohibited conduct include:
  1. Suspending an employee who attempts to update her Employment Authorization Document
  2. Demoting an employee who attempts to provide the employer with her new name.
  3. Firing an employee who attempts to update her SSN

# **QUESTIONS?**

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# THANK YOU FOR JOINING FISHER PHILLIPS

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