

THE NEW I-9 FORM

UPDATE: JULY 2017

USCIS published revised version on I-9 Form; employers must begin using it by Sept. 18



U.S. Citizenship
and Immigration
Services

The Trump administration has released a new version of the I-9 Form (**Employment Eligibility Verification form**) that you'll need to begin using by Sept. 18, 2017. Plus, the feds last month confirmed the hiring of 10,000 new Immigration and Customs Enforcement (ICE) agents to focus on civil and criminal investigations—a move that could *triple* the number of I-9 workplace audits conducted by the agency.

THE NEW FORM: The new I-9 form is dated 07/17/17 in the lower left corner, and it replaces a version dated 11/14/2016. Following a two-month grace period, you must start using the new I-9 by Sept. 18.

This new interactive PDF still contains all the “smart I-9” features that were unveiled earlier this year to help employers reduce errors and complete the form more easily. The only changes to this new version are a few minor changes to acceptable documents and other technical changes. Employers must continue following existing **storage and retention** rules for any previously completed Form I-9.

Here are the changes that were made on the July 2017 version of the I-9 form, according to the USCIS:

Revisions to the I-9 instructions:

- The name of the Office of Special Counsel for Immigration-Related Unfair Employment Practices is changed to its new name, Immigrant and Employee Rights Section.
- The form will remove “the end of” from the phrase “the first day of employment.”

Revisions related to the I-9's List of Acceptable Documents:

- Added: the Consular Report of Birth Abroad (Form FS-240) to List C. Employers completing Form I-9 on a computer will be able to select Form FS-240 from the drop-down menus available in List C of Section 2 and Section 3. E-Verify users will also be able to select Form FS-240 when creating a case for an employee who has presented this document for Form I-9.
- Combined: all the certifications of report of birth issued by the Department of State (Form FS-545, Form DS-1350 and Form FS-240) into selection C#2 in List C.
- Renumbered: all List C documents except the Social Security card. For example, the employment

UPDATE: NOVEMBER 2016

USCIS publishes new 'smart' version of the I-9 form; start using it by Jan. 22, 2017

Out with the old, in with the new. This year's turn of the calendar also carries a new paperwork duty for all employers—trash your old version of the I-9 (the *Employment Eligibility Verification* form) and start using the new “smart” version by Jan. 22.

The U.S. Citizenship and Immigration Services (USCIS) published the long-awaited new version on Nov. 14, 2016. It carries an 8/31/2019 expiration date. You can continue using the current I-9 version (which has a 03/31/16 expiration date) until the new one becomes official on Jan. 22, 2017. At that point, the new version becomes mandatory for all employers.

What's new on the I-9? This new version includes expanded instructions, the ability to add multiple preparers and a handful of changes to various fields. Example: the “Other Names Used” field is being replaced by “Other Last Names Used” avoid possible discrimination and protect the privacy of transgender people.

The new version is being called the “smart I-9” because the interactive PDF also included enhanced features to reduce errors and complete the form more easily. This includes:

- Drop-down menus for filing in fields and selecting dates
- Prompts to ensure information is entered fully and correctly
- Embedded instructions for completing each field (a clickable question mark)
- A barcode unique to each form (QR code) to identify it for audit purposes.

Note: The changes stop short of creating a fully electronic I-9. While you will be able to more easily complete the form on your computer, you will still need to print the form, obtain handwritten signatures, store the paperwork and monitor forms for reverification.

“A smart I-9 is still much better than a not-so-smart paper I-9,” says immigration attorney John Fay of LawLogix. “Small and solo employers, in particular, will likely appreciate the new form’s error checking and built-in prompts.” (Read John's detailed description of the changes at the [LawLogix blog](#).)

Links to the I-9, *Employment Eligibility Verification*, Form:

- [Form I-9 - new version with 08/31/2019 expiration date \(PDF\)](#)
- [Instructions for Form I-9 \(PDF\)](#)

- [Form I-9 - paper version \(This version is unfillable online and must be printed for completion on paper only\) \(PDF\)](#)

Additional I-9 Resources

- [Handbook for Employers, Guidance for Completing Form I-9 \(This handbook will be updated soon; refer to the Form Instructions for the most up-to-date information.\) \(PDF\)](#)
- [Form I-9 Supplement, Section 1 Preparer and/or Translator Certification \(PDF\)](#)
- [Form I-9 - 03/08/13 edition - this is a previous edition of this form. Do not use after 01/21/17 \(PDF\) \(Spanish version\)](#)
- [Form I-9 in Spanish \(may be filled out by employers and employees in Puerto Rico ONLY\) \(PDF\) \(Instructions\)](#)

Find links to more Form I-9 information and news at the [USCIS I-9 website](#).

ARCHIVE: THE MARCH 2013 CHANGES TO THE I-9 FORM

On March 8, 2013, the U.S. Citizenship and Immigration Services (USCIS) issued [a new version of the Employment Eligibility Verification Form](#). Employers have been required since 1986 to complete the I-9 Form for each new hire to verify the person's identity and work eligibility, then to keep the form on file.

The USCIS announced the change in the [Federal Register](#) on March 8 and published the new form on its web site.

60-day grace period. Employers can immediately start using the new form, which carries a "Rev. 03/08/13)N" notation in the bottom left corner. The USCIS is giving employers 60 days to begin using the new form in their hiring procedures. "After May 7, 2013, all employers must use the revised Form I-9 for each new employee hired in the United States," said the agency.

Employers that fail to use the correct form after 60 days open themselves to the [varying penalties](#) under the law.

What's new? According the USCIS, the new form "makes several improvements designed to minimize the errors in form completion." These include:

- Adding new data fields, including room for the employee's telephone number and email address, as well as foreign passport information;
- Clarifying the form's instructions; and

- Revising the layout of the form and expanding it from one to two pages (not including the form's instructions and List of Acceptable Documents)

Note: Employers do NOT have to complete a new Form I-9 for current employees if they already have a complete I-9 on file for that worker (unless reverification applies). Unnecessary verification efforts of your employees could trigger a discrimination complaint. So, starting today, only use the new form with new hires or employees who need I-9 reverification.

USCIS has also scheduled [free webinars](#) to help employers learn about the new form.

NEW CHANGES TO THE I-9 FORM

Here is a section-by-section summary of the changes to the Form I-9, according to a [report](#) by the Fisher & Phillips law firm:

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.

Completing the I-9: Top 10 do's and don'ts

The I-9 form may have changed, but HR's responsibilities for seeing that it's properly filled out haven't. Sidestep potential legal troubles by following these I-9 do's and don'ts:

- 1. Do** require all new hires to complete and sign Section 1 on their first day of work.
- 2. Don't** ask an applicant to complete an I-9 prior to extending a job offer. Information on the I-9 could be used as a weapon in a discrimination lawsuit if the applicant is not hired.
- 3. Do** review the employee's documents to make sure they are on the Form I-9's list of acceptable documents and to make sure they appear genuine.
- 4. Don't** ask the employee for any particular documents or more documents than required by the I-9. The employee chooses the documents, not you.
- 5. Do** establish a consistent procedure for completing I-9s and educate your hiring managers.
- 6. Don't** consider the expiration date of I-9 documentation when making hiring, promotion or firing decisions.
- 7. Do** make and retain copies of all I-9 documentation employees provide. These documents will come in handy in the event of an audit.
- 8. Don't** forget to keep a tickler file to follow up on expiring documents. Notify employees of the need to re-verify documentation 90 days before the current documents expire.
- 9. Do** keep the Form I-9 and copies of an employee's documents for three years after the date of hire or one year after termination, whichever comes later.
- 10. Don't** put the Form I-9 in an employee's personnel file. To protect your company against discrimination claims, keep the I-9 and supporting documentation in a separate file.