



Practice Update

Heads Up: Employers Must Use Yet Another New I-9 Form

August 25, 2017

By [Rachel L. Perez](#)

Employers need to switch to yet another new I-9 Form on or before September 18, 2017. The latest update—the second revision to the I-9 since the beginning of the Trump Administration—does not reflect any significant substantive changes. But employers who fail to timely implement use of the new form risk being fined for non-compliance.

Employers need not complete a new Form I-9 for existing employees who already have a Form I-9 on file. The new version (with a revised date of 7/17/17) will only need to be completed for new hires and reverifications. Employers must continue to retain and store any previously completed Form I-9 for three years after the date of hire, or for one year after employment is terminated, whichever is later.

Here's a quick look at the changes:

Revisions to Form I-9 Instructions:

- The Office of Special Counsel for Immigration-Related Unfair Employment Practices has been renamed to the Immigrant and Employee Rights Section.
- Under Completing Section I: Employee Information and Attestation, newly hired employees must complete Section 1 no later than "the first day of employment" rather than "the end of the first day of employment."

Revisions to Form I-9 List of Acceptable Documents:

- The Consular Report of Birth Abroad (Form FS-240) has been added 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.
- All certifications of report of birth issued by the Department of State (Form FS-545, Form DS-1350 and Form FS-240) have been combined into selection C#2 in List C.
- Documents under List C have been renumbered, except the Social Security card. For

example, the employment authorization document issued by the Department of Homeland Security on List C will change from List C #8 to List C #7.

These changes have been included in a revised "Handbook for Employers: Guidance for Completing Form I-9 (M-274)," published by USCIS as a user-friendly version tailored to employers for simple navigation. The handbook has been converted entirely to an electronic format, making it easier to search for specific topics by chapter from the Handbook for Employers [homepage](#), or from the electronic table of contents [page](#). The handbook is the employer's go-to for answers to the most frequently asked questions, such as what to do if an employee shows up to work with a new name, new social security number, or a new identity altogether.

Completing Form I-9 requires collecting personal information about employees, so employers should ensure that the Form I-9 and any corresponding documentation is stored securely. Employers can store completed Forms I-9 on-site or at an off-site storage facility in a single format or in a combination of formats, such as paper, electronic, microfilm, or microfiche. Employers are reminded that the employer cannot request specific documents; the employee may choose. Keeping copies of supporting documents is not mandatory; however, if employers keep copies for some employees, they should keep copies for all.

No matter how employers choose to store the Form I-9, employers must be prepared to make it available for inspection by the Department of Homeland Security, the Department of Labor, or the Immigrant and Employee Rights Section. Employers must be able to present it to government officials for inspection within three business days of the date the forms are requested.

For more information, contact Akerman's labor and employment attorneys who are experienced in all areas of immigration planning and compliance.

This Akerman Practice Update is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome

[Related Practices](#)

Immigration Planning & Compliance
Labor & Employment

[Related Biographies](#)

Rachel L. Perez