Form I-9 Updates for CUPA with E-Verify tips

Every Employee.

Every Time.
Disclaimer

This presentation is intended for employers and their authorized representatives. This presentation provides basic guidance about the rules and responsibilities during the employment eligibility verification process. For more information visit the I-9 Central website.

This presentation is not intended for members of the media. For all media inquiries visit the U.S. Citizenship and Immigration Services Media Contacts webpage.
Agenda

- Background
- Form I-9 Process
- Form I-9 Updates
- Form I-9 and E-Verify
- Resources
In 1986, in an effort to control illegal immigration, Congress passed the *Immigration Reform and Control Act (IRCA)*.

**IRCA** forbids employers from knowingly hiring individuals who do not have work authorization in the United States.

The employment eligibility verification provisions, and sanctions, of **IRCA** are found in **Section 274A of the Immigration and Nationality Act (INA)**.
Working in the U.S.

- Citizens of the United States
- Noncitizen Nationals of the United States
- Lawful Permanent Residents
- Aliens (Noncitizens) Authorized to Work
Employment Verification

To comply with the employment eligibility verification provisions **ALL** employers must:

- For employees hired after November 6, 1986:
  - Verify the **identity** documents
  - Verify the **employment authorization** documents
  - **Complete** and **retain** a Form I-9

- **Employers MUST refrain from discriminating** against individuals on the basis of actual or perceived national origin, citizenship or immigration status
The anti-discrimination provisions of the INA prohibit four types of unlawful conduct:

- Citizenship or immigration status discrimination*
- National origin discrimination*
- Unfair documentary practices during Form I-9 process
- Retaliation

* Actual or perceived discrimination
Form I-9 Requirements

✔️ As of May 1, 2020 you can only use Form I-9, Employment Eligibility Verification, with the 10/21/2019 revision date for all new hires and reverifications

✔️ Employers are not required to have Forms I-9 for employees hired on or before November 6, 1986

✔️ You may delegate the authority to complete Form I-9 to an authorized representative, however, you will retain liability for any errors

Visit I-9 Central Related News for updates.
What is NextGen
- A fully integrated, portable, and electronic I-9 and E-Verify employment experience that will increase efficiencies for employers and employees.

When is NextGen coming?
- Unveiling is at least a year out.

Will NextGen replace E-Verify or myE-Verify
- No, NextGen will operate alongside E-Verify and myE-Verify.

YouTube NextGen Overview
You are NOT required to complete Form I-9 for:

- Casual domestic service employees working in a private household when work is sporadic, irregular or intermittent
- Independent contractors for whom you do not set work hours or provide tools to do the job
- Employees working outside the United States*

* This statement excludes the 50 States, District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.
Completing Form I-9

Lists of Acceptable Documents

Form I-9

November 16, 2022
Section 1: Employee Information and Attestation

- EMPLOYEE completes no later than 1st day of work for pay
- Social Security Number is required for E-Verify
- E-mail address is optional for employee
  - If provided, it MUST be entered in E-Verify
- Attestation
- Preparer or Translator

EMPLOYEE completes no later than 1st day of work for pay

Social Security Number is required for E-Verify

E-mail address is optional for employee
- If provided, it MUST be entered in E-Verify

Attestation

Preparer or Translator

November 16, 2022
Section 2: Employer Certification of Document Review

✓ EMPLOYER completes Section 2 no later than 3 business days after the employee begins work for pay

✓ The person that examines the original, unexpired documents in the presence of the employee MUST fill out, sign and date Section 2

✓ Date fields
  - Today’s date
  - First day of employment

November 16, 2022
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.
You may accept a receipt showing that your employee has applied to replace a document that was **lost**, **stolen** or **damaged**.

- The receipt must be issued by the originating agency
- Employee must present original replacement document or another acceptable document (or documents) within 90 days of the hire date
- Receipts are never acceptable if employment will last less than 3 business days
- E-Verify cases should be delayed until the replacement receipt is provided
Section 2: Copying Documents

You may choose to make copies of documents employees present for Section 2. If you choose to photocopy documents:

- You must do so for **ALL** employees
- Be consistent and copy all documents employees provide

**E-Verify employers** must photocopy the following documents if voluntarily provided by the employee for Form I-9 Section 2:

- US Passport or Passport Card
- I-551 Lawful Permanent Resident Card
- I-766 Employment Authorization Document

November 16, 2022
Section 3: Reverification

Employers **MUST** reverify an employee using Form I-9 Section 3 if their temporary employment authorization or temporary employment authorization document has expired.

You **MAY** also complete Section 3 if you:
- Rehire the employee within 3 years of the date you first completed Form I-9*; or
- Update the employee’s biographic information

* Do not create a new E-Verify case for an existing employee you are reverifying.
### Section 3: 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
- Expired Permanent Resident Card presented with Form I-797

#### Do not Reverify
- U.S. citizens and noncitizen nationals
- U.S. passports or passport cards
- Permanent Residents who present an unexpired Permanent Resident or Alien Registration Receipt card (Form I-551)
- [List B](#) documents
Correcting Form I-9

Correcting Mistakes
If you discover a mistake on Form I-9, correct the existing form OR prepare a new Form I-9:
- If you choose to correct the existing Form I-9, line out the incorrect portions, enter the correct information, and initial and date the correction.
- If you do a new Form I-9, keep the old form with the new form. You should also attach a short memo to both the new and old Forms I-9 stating the reason for your action.

Missing Forms
If you discover you are missing the Form I-9 for an employee:
- Give the employee the current version of the Form I-9;
- Complete the form as soon as possible;
- Do not backdate the form; and
- Attach a signed and dated explanation of the corrective action.

Guidance for Conducting Internal Audits

November 16, 2022
You must have a Form I-9 on file for all current employees:

- Store Forms I-9 securely in a way that meets your business needs – on site, off-site, storage facility
- Store copies of documents with the Form I-9 or with the employee’s records
- Ensure that only authorized personnel have access to stored Forms I-9
- Make Forms I-9 available within 3 days of an official request for inspection

Storage and Retention
Retention

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
You must complete Form I-9 before you create a case in E-Verify.
What is E-Verify?

- Free web-based service that’s fast and easy to use
- Electronically verifies the employment eligibility of:
  - Newly hired employees
  - Existing employees assigned to work on a qualifying federal contract
- Partnership between the U.S. Department of Homeland Security (DHS) and the Social Security Administration (SSA)
E-Verify Case Processing

Date of Birth
01/31/1958

U.S. Social Security Number
556-123-456789

Employee’s E-mail Address
looneytunes@gmail.com

Modernization Highlights
Enter employee’s e-mail address or select “No email address provided” before continuing.

Continue
E-Verify Case Processing
Attestation and Documents

Citizenship Status
- A citizen of the United States
- A noncitizen national of the United States
- A lawful permanent resident
- An alien authorized to work

Employer or Authorized Representative Review and Verification

What document types are on Tunes Looney's Form I-9?
- List A Document
- List B & C Document

Modernization Highlights
Selected “Citizenship Status” determines available List A, or B and C options.
E-Verify Case Processing

Helper Text

Modernization Highlights
Helper text and pictures available to support document number entry
E-Verify Case Processing
First Day of Employment

Additional Case Details

Select the Employee's First Day of Employment
- Today
- 1 Day Ago
- 2 Days Ago

Employee's First Day of Employment
10/04/2021
Employees must be verified within three business days of their first day of employment.

Visa Number

SEVIS ID Number
N1234567891

Employee ID (Optional)
An optional, 40-character field that you may create to easily identify and locate your employee's E-Verify case.

Continue
E-Verify Case Processing
Photo Match

Verify Employee
- Enter Form I-9 Information
- Review Case

Review Case
- Case Results

Photo Match
Does the photo displayed match the photo displayed on Test Test's U.S. Passport or Passport Card?
- Yes, this photo matches
- No, this photo does not match
- No photo displayed

Reminder
To help reduce document fraud, when Photo Matching is activated, employers must compare the photo on the document provided by the employee to the photo that appears in E-Verify.
How Does E-Verify Work?
Types of Mismatches

- Social Security Administration (SSA) Mismatch,
- Department of Homeland Security (DHS) Mismatch,

OR

- DHS and SSA Dual Mismatch

**IMPORTANT:** Employers may not terminate, suspend, delay training, withhold or lower pay, or take any other adverse action against an employee because the employee received a mismatch, until the mismatch becomes a Final Nonconfirmation.

E-Verify Updates the SSA Mismatch Process
Employers must notify the employee and complete the referral process within **10 federal gov workdays**.

Employer prints the Further Action Notice and reviews it with the employee promptly and privately.

Employee decides whether or not to take action to resolve the mismatch.

Employer refers case and provides the Referral Date Confirmation for employees who take action.

Employee visits SSA or calls DHS. See [E-Verify What’s New](#) for mismatch extensions due to public office closures.

Employer receives updated results in E-Verify and closes the case.

<table>
<thead>
<tr>
<th>Chooses to Takes Action</th>
<th>Chooses Not to Take Action</th>
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</thead>
<tbody>
<tr>
<td>Employer refers employee to appropriate agency.</td>
<td>Employer may terminate employee and close the E-Verify case.</td>
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Tentative Nonconfirmation (Mismatch)
Further Action Notice

Why You Received This Notice
Your employer, [employer name], uses E-Verify to confirm work eligibility in the United States. E-Verify compares the information you provided on your Form I-9, Employment Eligibility Verification, to official government records. The information your employer entered into E-Verify from your Form I-9 does not match records available to the Department of Homeland Security (DHS), resulting in a mismatch, also called a Tentative Nonconfirmation (TNC).

Reason for Your Mismatch
Mismatch Date: ____________ E-Verify Case Number: ____________

This does not necessarily mean that you are not authorized to work in the United States. There are many possible reasons why E-Verify could not match your information to available records, listed at http://www.E-Verify.gov/mismatch.

Take Action to Resolve the Mismatch
Step 1: Review your information to make sure it was entered correctly.

Last Name: ____________ First Name: ____________
Month and Year of Birth: ____________ Social Security Number: ____________
A-Number or USCIS Number: ____________

If your information is correct, proceed to Step 2. If there are errors, show your employer so they can create a new E-Verify case using the correct information. You do not need to take any further action.

Step 2: Decide if you want to resolve your E-Verify case and mark your decision:

☐ I will take action to resolve this mismatch by following the instructions on this notice.
☐ I will not take action to resolve this mismatch. I understand this decision means that E-Verify will not confirm my work authorization and my employer may terminate my employment.

IMPORTANT: If you fail to notify your employer of your decision by [date], your employer may terminate your employment and close your case.

Employee's Signature: ____________ Date: ____________

Resolve Your Mismatch by Contacting DHS
You must begin resolving the mismatch by the date listed on the Referral Date Confirmation document given to you by your employer.
Submit documents online that show your employment authorization:
1. Create or login to a myE-Verify account at https://myeverify.uscis.gov.
2. Select “myUploads” and enter your E-Verify case number.
3. Upload your documents as a jpg, jpeg, png, or pdf. Your files cannot exceed 4MB.

In some cases, after submitting your documents online, we may instruct you to call us.

OR
If you are unable to use our website, call 888-897-7781 (TTY: 877-875-6628) and speak with a DHS representative. If you need help in another language, you may ask for an interpreter. Have this notice available when you call.

Check the status of your case at https://myeverify.uscis.gov.

Your Rights in This Process
Employers may not take an adverse action against you solely because you chose to resolve a mismatch or have a pending E-Verify case. Learn more at https://www.e-verify.gov/employer_rights or call us at 888-897-7781 (TTY: 877-875-6628).

Employers cannot …
Use E-Verify to unlawfully discriminate against employees. It is illegal to discriminate based on citizenship, immigration status, or national origin, including in the Form I-9 or E-Verify process.
Discriminate against employees because of race, color, religion, sex, including pregnancy; gender identity, and sexual orientation, national origin, age (40 or older), disability or genetic information.

For assistance, contact…
US Department of Justice, Civil Rights Division, Immigrant and Employee Rights SectionWorker Hotline at 800-255-7668 (TTY: 800-237-2513) or visit https://www.justice.gov/crt.

Instructions for Employers
If the employee did not choose to take action to resolve the mismatch by the 10th federal government working day after E-Verify issued this notice, E-Verify cannot confirm the employee is authorized to work in the United States and you may terminate employment and close this case.
Referral Date Confirmation

Why You Received This Document

As part of the E-Verify process, your employer gave you a Further Action Notice explaining that E-Verify could not confirm your employment eligibility in the United States.

You chose to take action, so your employer notified E-Verify, setting a deadline for you to begin resolving the mismatch. If your employer did not provide you with the Further Action Notice, contact them immediately.

Begin Resolving the Mismatch by <<Date>>

You must begin resolving the mismatch by following the steps on your Further Action Notice.

Employers must allow you to contest a mismatch, also called a Tentative Nonconfirmation. They may not take adverse action against you because of the mismatch while you are contesting it and your E-Verify case is pending.

If you do not act by <<Date>>, E-Verify will issue a final nonconfirmation and your employer may terminate your employment.
Form I-9 Resources

I-9 Central
- I-9 Central
- Revised I-9 Table of Changes
- I-9Central/Espanol (Spanish)
- Form I-9 DACA Guidance
- Updated Receipts Guidance
- Form I-9 and E-Verify Natural Disaster Fact Sheet

M-274, Handbook for Employers
- M-274 Summary of Changes

Mergers & Acquisitions

Examples of documents:
- Acceptable Documents
- Automatic Extensions
- Combination Documents

I-9 Webinar on Demand & Vignettes

November 16, 2022
Temporary Policies Related to COVID-19

Please visit our COVID-19 Temporary Policy page for a full list and details regarding temporary policies related to Form I-9 and E-Verify. Go to [E-Verify.gov](https://E-Verify.gov) and click on the ‘COVID-19 Temporary Policies’ link.
Form I-9 Physical Document Review for Section 2
Because of ongoing precautions related to COVID-19, DHS has extended the Form I-9 requirement flexibilities to July 31, 2023.

Expired List B Identity Documents
DHS has ended the COVID-19 Temporary Policy for List B Identity Documents. As of May 1, employers may no longer accept expired List B documents. If an employee presented an expired List B document between May 1, 2020, and April 30, 2022, employers are required to update their Forms I-9 by July 31, 2022.

Social Security Administration Resumes E-Verify Operations
Starting July 15, 2022, employees whose E-Verify cases are referred to SSA on or after July 15, 2022, will have the normal 8 federal working days to contact their local SSA office to begin resolving the mismatch. E-Verify cases referred between March 2, 2020, to July 14, 2022, with a SSA mismatch will still have an extended timeframe to be resolved. See the E-Verify User Manual or e-verify.gov for more information.

See the COVID-19 temporary policies page and Q&A for the most up-to-date information related to any of these policies.
E-Verify Engagement

Take advantage of our FREE Engagement services:
Join another public webinar or request a speaker for your event or customized training.

Topics include: Form I-9 E-Verify Overview, E-Verify for Federal Contractors, Employee Rights, myE-Verify

Seek approval for E-Verify® Logo Authorization
You can use logos on websites, job announcements/applications, or company broadcasts to further advertise your company’s commitment to a legal workforce.
E-Verify received the highest rating for customer service of all federal agencies in the American Customer Satisfaction Survey!

- Form I-9 Website: [www.uscis.gov/i-9Central](http://www.uscis.gov/i-9Central)
- E-Verify Website: [www.E-Verify.gov](http://www.E-Verify.gov)
- Employer Hotline: (888) 464-4218
- Employee Hotline: (888) 897-7781
- Form I-9 E-Mail: i-9Central@uscis.dhs.gov
- E-Verify E-Mail: E-Verify@uscis.dhs.gov
Thank You!