

Part Seven

Some Questions You May Have About Form I-9

Employers should read these questions and answers carefully. They contain valuable information that, in some cases, is not found elsewhere in this handbook.

For more information on Form I-9, employers and employees can also visit I-9 Central at uscis.gov/i-9-central.

Questions about the Verification Process

1. Q. Do citizens and noncitizen nationals of the United States need to complete Form I-9?

- A.** Yes. While citizens and noncitizen nationals of the United States are automatically eligible for employment, they too must present the required documents and complete a Form I-9. U.S. citizens include persons born in the United States, Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. U.S. noncitizen nationals are persons who owe permanent allegiance to the United States, which include those born in American Samoa, including Swains Island.

NOTE: Citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) are not noncitizen nationals, however they are eligible to work in the U.S.

2. Q. Do I need to complete Form I-9 for employees working in the CNMI?

- A.** Yes. You need to complete Form I-9 for employees hired for employment in the CNMI on or after Nov. 27, 2011. Employers in CNMI should have used Form I-9 CNMI between Nov. 28, 2009 and Nov. 27, 2011. If the employer did not complete Form I-9 CNMI as required during this period the employer should complete a new Form I-9 as soon as the employer discovers the omission. You should not complete Form I-9 for any employees already working for you on Nov. 27, 2009, even if you assign them new job responsibilities within your company. For more information

on federal immigration law in the CNMI, go to uscis.gov/CNMI.

3. Q. Do I need to complete Form I-9 for independent contractors or their employees?

- A.** No. For example, if you contract with a construction company to perform renovations on your building, you do not have to complete Form I-9 for that company's employees. The construction company is responsible for completing Form I-9 for its own employees. However, you may not use a contract, subcontract or exchange to obtain the labor or services of an employee knowing that the employee is unauthorized to work.

4. Q. May I fire an employee who fails to produce the required documents within three business days of their start date?

- A.** Yes. You may terminate an employee who fails to produce the required document or documents, or an acceptable receipt for a document, within three business days of the date employment begins.

5. Q. What happens if I properly complete and retain a Form I-9 and DHS discovers that my employee is not actually authorized to work?

- A.** You cannot be charged with a verification violation. You will also have a good faith defense against the imposition of employer sanctions penalties for knowingly hiring an unauthorized individual, unless the government can show you had knowledge of the unauthorized status of the employee.

Questions about Documents

6. Q. May I specify which documents I will accept for verification?

- A.** No. The employee may choose which document(s) they want to present from the Lists of Acceptable Documents. You must accept

any document (from List A) or combination of documents (one from List B and one from List C) listed on Form I-9 and found in Part Eight of this handbook that reasonably appear on their face to be genuine and to relate to the person presenting them. To do otherwise could be an unfair immigration-related employment practice in violation of the anti-discrimination provision in the INA. Individuals who look and/or sound foreign must not be treated differently in the recruiting, hiring, or verification process. Please see Part Eight of this handbook for more information on acceptable documents.

For more information relating to discrimination during the Form I-9 process, contact IER at 1-800-255-8155 (employers) or 1-800-237-2515 (TDD) or visit IER's website at justice.gov/ier.

NOTE: An employer participating in E-Verify can only accept a List B document with a photograph.

7. Q. What is my responsibility concerning the authenticity of document(s) presented to me?

- A.** You must physically examine the document(s), and if they reasonably appear on their face to be genuine and to relate to the person presenting them, you must accept them. To do otherwise could be an unfair immigration-related employment practice. If the document(s) do not reasonably appear on their face to be genuine or to relate to the person presenting them, you must not accept them.

However, you must provide the employee with an opportunity to present other documents from the Lists of Acceptable Documents.

8. Q. My employee has presented a U.S. passport card. Is this an acceptable document?

- A.** Yes. The passport card is a wallet-size document issued by the U.S. Department of State. While its permissible uses for international travel are more limited than the U.S. passport book, the passport card is a fully valid passport that attests to the U.S. citizenship and identity of the bearer. As such, the passport card is considered a "passport" for purposes of Form I-9 and has been included on List A of the Lists of Acceptable Documents on Form I-9.

9. Q. Why was documentation for citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) added to the Lists of Acceptable Documents on Form I-9?

- A.** Under the Compacts of Free Association between the United States and FSM and RMI, most citizens of FSM and RMI are eligible to reside and work in the United States as nonimmigrants. An amendment to the Compacts eliminated the need for citizens of these two countries to obtain Employment Authorization Documents (Forms I-766) to work in the United States. However, FSM and RMI citizens may also apply for Employment Authorization Documents (Forms I-766) if they wish, or present a combination of List B and List C documents. The List A document specific to FSM and RMI citizens is a valid FSM or RMI passport with a Form I-94/Form I-94A indicating nonimmigrant admission under one of the Compacts.

10. Q. How do I know whether a Native American tribal document issued by a U.S. tribe presented by my employee is acceptable for Form I-9 purposes?

- A. In order to be acceptable, a Native American tribal document should be issued by a tribe recognized by the U.S. federal government. Because federal recognition of tribes can change over time, to determine if the tribe is federally recognized, please check the Bureau of Indian Affairs website at bia.gov.

11. Q. Can the Certificate of Indian Status, commonly referred to as the status card or INAC card, be used as a Native American tribal document for Form I-9 purposes?

- A. No. This card is not a Native American tribal document. It is issued by Indian and Northern Affairs Canada (INAC), which is a part of the Canadian government.

12. Q. May I accept an expired document?

- A. No. Expired documents are no longer acceptable for Form I-9. However, you may accept Employment Authorization Documents (Forms I-766) and Permanent Resident Cards (Forms I-551) that appear to be expired on their face, but have been extended by USCIS.

For example, Temporary Protected Status (TPS) beneficiaries whose Employment Authorization Documents (Forms I-766) appear to be expired may be automatically extended in a Federal Register notice or, if the employee timely filed for a new Employment Authorization Document (Form I-766) the corresponding I-797C from USCIS indicating timely filing may be presented with the expired EAD to the employer as a List A document. These individuals may continue to work based on their expired Employment Authorization Documents (Forms I-766) during the automatic extension period. When the automatic extension of the Employment Authorization Document (Form I-766)

expires, you must reverify the employee's employment authorization.

Please see *Automatic Extensions of Employment Authorization Document in Certain Circumstances* for more information.

NOTE: Some documents, such as birth certificates and Social Security cards, do not contain an expiration date and should be treated as unexpired.

13. Q. How can I tell if a DHS-issued document has expired? If it has expired, should I reverify the employee?

- A. Some INS-issued documents, such as older versions of the Alien Registration Receipt Card (Form I-551), do not have expiration dates, and are still acceptable for Form I-9 purposes. However, all subsequent DHS-issued Permanent Resident Cards (Forms I-551) contain two-year or 10-year expiration dates. You should not reverify an expired Alien Registration Receipt Card/Permanent Resident Card (Form I-551). Other DHS-issued documents, such as the Employment Authorization Document (Form I-766) also have expiration dates. These dates can be found on the face of the document. Generally Employment Authorization Documents (Forms I-766) must be reverified upon expiration.

14. Q. May I accept a photocopy of a document presented by an employee?

- A. No. Employees must present original documents. The only exception is that an employee may present a certified copy of a birth certificate.

15. Q. I noticed on Form I-9 that under List A there are three spaces for document numbers and expiration dates. Does this mean I have to see three List A documents.

- A. No. Form I-9 (Rev. 11/14/16 N) includes an expanded document entry area in Section 2. The additional spaces are provided in case an employee presents a List A document that is really a combination of more than one document. For example, an F-1 student in curricular practical training may present, under List A, a foreign passport, Form I-94/Form I-94A and Form I-20 that specifies that you

are their approved employer. Form I-9 provides space for you to enter the document number and expiration date for all three documents. Another instance where an employer may need to enter document information for three documents is for J-1 exchange visitors. If an employee provides you with one document from List A (such as a U.S. passport), or a combination of two documents (such as a foreign passport and Form I-94/94A), you do not need to fill out any unused space(s) under List A.

16. Q. When I review an employee's identity and employment authorization documents, should I make copies of them?

- A. If you participate in E-Verify and the employee presents a document used as part of Photo Matching, currently the U.S. passport and passport card, Permanent Resident Card (Form I-551) and the Employment Authorization Document (Form I-766), you must retain a photocopy of the document they present. Other documents may be added to Photo Matching in the future. If you do not participate in E-Verify you are not required to make photocopies of documents. However, if you wish to make photocopies of documents other than those used in E-Verify, you must do so for all employees. Photocopies must not be used for any other purpose. Photocopying documents does not relieve you of your obligation to fully complete Section 2 of Form I-9, nor is it an acceptable substitute for proper completion of Form I-9 in general.

17. Q. When can employees present receipts for documents in lieu of actual documents from the Lists of Acceptable Documents?

- A. The "receipt rule" is designed to cover situations in which an employee is authorized to work at the time of initial hire or reverification, but they are not in possession of a document listed on the Lists of Acceptable Documents accompanying Form I-9. Receipts showing that a person has applied for an initial grant of employment authorization are not acceptable.

An individual may present a receipt in lieu of a document listed on Form I-9 to complete

Section 2 or Section 3 of Form I-9. The receipt is valid for a temporary period. There are three different documents that qualify as receipts under the rule:

1. A receipt for a replacement document when the document has been lost, stolen, or damaged. The receipt is valid for 90 days, after which the individual must present the replacement document to complete Form I-9.
2. Form I-94/I-94A containing a temporary I-551 stamp and a photograph. The individual must present the actual Form I-551 by the expiration date of the temporary I-551 stamp or within one year from the date of issuance of Form I-94/Form I-94A if the I-551 stamp does not contain an expiration date.
3. A Form I-94/Form I-94A containing an unexpired refugee admission stamp. This is considered a receipt for either an Employment Authorization Document (Form I-766) or a combination of an unrestricted Social Security card and List B document. The employee must present an Employment Authorization Document (Form I-766) or an unrestricted Social Security card in combination with a List B document to complete Form I-9 within 90 days after the date of hire or, in the case of reverification, the date employment authorization expires. For more information on receipts, see Table 1 in Part Two.

18. Q. My nonimmigrant employee has presented a foreign passport with a Form I-94/Form I-94A (List A, Item 5). How do I know if this employee is authorized to work?

- A. You, as the employer, likely have submitted a petition to USCIS on the nonimmigrant employee's behalf. However, there are some exceptions to this rule:
1. You made an offer of employment to a Canadian passport holder who entered the United States under the North American Free Trade Agreement (NAFTA) with an offer letter from your company. This nonimmigrant worker will have a Form I-94/Form I-94A indicating a TN immigration status, and may choose to

present it with their passport under List A. The employee may also present Form I-94/Form I-94A indicating a TN immigration status as a List C document, in which case your employee will need to present a List B document (such as a Canadian driver's license) to satisfy Section 2 of Form I-9.

2. A student working in on-campus employment or participating in curricular practical training (See Part Two.)
3. A J-1 exchange visitor. (See Part Two.)

Most employees who present a foreign passport in combination with a Form I-94 or I-94A (List A, Item 5) are restricted to work only for the employer who petitioned on their behalf. If you did not submit a petition for an employee who presents such documentation, then that non-immigrant worker is not usually authorized to work for you. See Part Two for more information on nonimmigrant employees.

19. Q. My new employee presented two documents to complete Form I-9, each containing a different last name. One document matches the name she entered in Section 1. The employee explained that she had just gotten married and changed her last name, but had not yet changed the name on the other document. Can I accept the document with the different name?

- A. You may accept a document with a different name than the name entered in Section 1 provided that you resolve the question of whether the document reasonably relates to the employee. You also may wish to attach a brief memo to Form I-9 stating the reason for the name discrepancy, along with any supporting documentation the employee provides. An employee may provide documentation to support their name change, but is not required to do so. If, however, you determine that the document with a different name does not reasonably appear to be genuine and to relate to her, you may ask her to

provide other documents from the Lists of Acceptable Documents on Form I-9.

20. Q. My employee entered a compound last name in Section 1 of Form I-9. The documents she presented contain only one of these names. Can I accept this document?

- A. DHS does not require employees to use any specific naming standard for Form I-9. If a new employee enters more than one last name in Section 1, but presents a document that contains only one of those last names, the document they present for Section 2 is acceptable as long as you are satisfied that the document reasonably appears to be genuine and to relate to the employee. It is helpful for individuals attesting to lawful permanent resident status who have more than one name to enter their name on Form I-9 as it appears on their Permanent Resident Card (Form I-551).

21. Q. The name on the document my employee presented to me is spelled slightly differently than the name they entered in Section 1 of Form I-9. Can I accept this document?

- A. If the document contains a slight spelling variation, and the employee has a reasonable explanation for the variation, the document is acceptable as long as you are satisfied that the document otherwise reasonably appears to be genuine and to relate to the employee.

22. Q. My employee's Employment Authorization Document (Form I-766) expired and the employee now wants to show me a Social Security card. Do I need to see a current DHS document?

- A. No. During reverification, an employee must be allowed to choose what documentation to present from either List A or List C. If an employee presents an unrestricted Social Security card upon reverification, the employee does not also need to present a current DHS document. However, if an employee presents a restricted Social Security card upon reverification, you must reject the restricted Social Security card, since it is not an acceptable Form I-9 document, and ask the employee to

choose different documentation from List A or List C of Form I-9.

23. Q. My employee presented me with a document issued by INS rather than DHS. Can I accept it?

- A. Yes, you can accept a document issued by INS if the document is unexpired and reasonably appears to be genuine and to relate to the individual presenting it. Effective March 1, 2003, the functions of the former INS were transferred to three agencies within the new DHS: USCIS, CBP, and ICE. Most immigration documents acceptable for Form I-9 use are issued by USCIS. Some documents issued by the former INS before March 1, 2003, such as Permanent Resident Cards or Forms I-94 noting asylee status, may still be within their period of validity. If otherwise acceptable, a document should not be rejected because it was issued by INS rather than DHS. It should also be noted that INS documents may bear dates of issuance after March 1, 2003, as it took some time in 2003 to modify document forms to reflect the new USCIS identity.

Questions about Completing and Retaining Form I-9

24. Q. Can an employee leave any part of Section 1 on Form I-9 blank?

- A. Employees must complete every applicable field in Section 1 of Form I-9 with the exception of the Social Security number field. However, employees must enter their Social Security number in this field if you participate in E-Verify. The e-mail address and telephone number fields are optional but if an employee chooses not to provide this information, they must enter "N/A." Do not leave these fields blank.

NOTE: Not all employees who attest to being an Alien Authorized to Work will have an expiration date for their employment authorization. However, refugees and asylees who present an Employment Authorization Document (Form I-766) have employment authorization that does not expire. These

individuals should put "N/A" where Section 1 asks for an expiration date.

25. Q. How do I correct a mistake on an employee's Form I-9?

- A. If you find a mistake on an employee's Form I-9, you must have the employee correct errors in Section 1. Employers must make corrections in Section 2. The best way to correct Form I-9 is to line through the portions of the form that contain incorrect information and then enter the correct information. Initial and date your correction. If you have previously made changes on Form I-9 using correction fluid, USCIS recommends that you attach a note to the corrected Form I-9 explaining what happened. Be sure to sign and date the note.

26. Q. What should I do if I need to reverify an employee who filled out an earlier version of Form I-9?

- A. If you used a version of Form I-9 when you originally verified the employee that is no longer valid, and you are now reverifying the employment authorization of that employee, the employee must provide any document(s) they choose from the current Lists of Acceptable Documents. Enter this new document(s) in Section 3 of the current version of Form I-9 and retain it with the previously completed Form I-9. To see if your form is an acceptable version of Form I-9, go to uscis.gov/i-9.

For more information on reverification, please see Part Two.

27. Q. Do I need to complete a new Form I-9 when one of my employees is promoted within my company or transfers to another company office at a different location?

- A. No. You do not need to complete a new Form I-9 for employees who have been promoted or transferred.

28. Q. What do I do when an employee's employment authorization expires?

- A. To continue to employ an individual whose employment authorization has expired, you will need to reverify the employee in Section 3

of Form I-9. Reverification must occur no later than the date that employment authorization expires. The employee must present a document from either List A or List C that shows either an extension of their initial employment authorization or new employment authorization. You must review this document and, if it reasonably appears on its face to be genuine and to relate to the person presenting it, enter the document title, number, and expiration date (if any), in the Reverification and Rehires section (Section 3), and sign in the appropriate space.

If the version of Form I-9 that you used for the employee's original verification is no longer valid, you must complete Section 3 of the current Form I-9 upon reverification and attach it to the original Form I-9.

You may want to establish a calendar notification system for employees whose employment authorization will expire and provide the employee with at least 90 days' notice prior to the expiration date of the employment authorization.

You may not reverify an expired U.S. passport or passport card, an Alien Registration Receipt Card/Permanent Resident Card (Form I-551), or a List B document that has expired.

Some workers are eligible for an automatic extension of their Employment Authorization Document for 180 days, in certain circumstances. If your employee presents an expired Employment Authorization Document (Form I-766) in combination with an I-797C Notice of Action from USCIS indicating both timely filing for a renewal of their Employment Authorization document and eligibility for a 180-day automatic extension of their Employment Authorization Document (Form I-766), you should not reverify the employee based on the expiration date on the face of the Employment Authorization Document (Form I-766); instead, update Section 2 of Form I-9 at that time. When the automatic extension of the Employment Authorization Document (Form I-766) expires (180 days after the expiration date on the face of the Employment Authorization Document (Form I-766)), you must reverify the employee's employment authorization. Please see *Automatic Extensions*

of Employment Authorization Document in Certain Circumstances for eligible categories and additional information.

NOTE: You cannot refuse to accept a document because it has a future expiration date. You must accept any document (from List A or List C) listed on Form I-9 that on its face reasonably appears to be genuine and to relate to the person presenting it. To do otherwise could be an unfair immigration-related employment practice in violation of the anti-discrimination provision of the INA.

29. Q. Can I avoid reverifying an employee on Form I-9 by not hiring persons whose employment authorization has an expiration date?

A. No. You cannot refuse to hire persons solely because their employment authorization is temporary. The existence of a future expiration date does not preclude continuous employment authorization for an employee and does not mean that subsequent employment authorization will not be granted. In addition, consideration of a future employment authorization expiration date in determining whether an individual is qualified for a particular job may be an unfair immigration-related employment practice in violation of the anti-discrimination provision of the INA.

30. Q. Can I contract with someone to complete Form I-9 for my business?

A. Yes. You can contract with another person or business to verify employees' identities and employment authorization and to complete Form I-9 for you. However, you are still responsible for the contractor's actions and are liable for any violations of the employer sanctions laws.

31. Q. How does the Immigrant and Employee Rights Section in the Department of Justice's Civil Rights Division (IER) obtain the necessary information to determine whether an employer has committed an unfair immigration-related employment practice

under the anti-discrimination provision of the INA?

- A. IER will notify you in writing to initiate an investigation, request information and documents, and interview your employees. If you refuse to cooperate, IER can obtain a subpoena to compel you to produce the information requested or to appear for an investigative interview.

32. Q. Do I have to complete Form I-9 for Canadians or Mexicans who entered the United States under the North American Free Trade Agreement (NAFTA)?

- A. Yes. You must complete Form I-9 for all employees. NAFTA entrants must show identity and employment authorization documents just like all other employees.

33. Q. If I am a recruiter or referrer for a fee, do I have to fill out Form I-9 on individuals that I recruit or refer?

- A. No, with three exceptions: Agricultural associations, agricultural employers, and farm labor contractors must complete Form I-9 on all individuals who are recruited or referred for a fee. However, all recruiters and referrers for a fee must complete Form I-9 for their own employees hired after Nov. 6, 1986. Also, all recruiters and referrers for a fee are liable for knowingly recruiting or referring for a fee individuals not authorized to work in the United States and must comply with federal anti-discrimination laws.

34. Q. If I am self-employed, do I have to fill out a Form I-9 on myself?

- A. A self-employed person does not need to complete a Form I-9 on their own behalf unless the person is an employee of a separate business entity, such as a corporation or partnership. If the person is an employee of a separate business entity, he or she, and any other employees, will have to complete Form I-9.

35. Q. I have heard that some state employment agencies, commonly known as state workforce

agencies, can certify that people they refer are authorized to work. Is that true?

- A. Yes. A state employment agency may choose to verify the employment authorization and identity of an individual it refers for employment on Form I-9. In such a case, the agency must issue a certification to you so that you receive it within 21 business days from the date the referred individual is hired. If an agency refers a potential employee to you with a job order, other appropriate referral form, or telephonically authorized referral, and the agency sends you a certification within 21 business days of the referral, you do not have to check documents or complete a Form I-9 if you hire that person. Before receiving the certification, you must retain the job order, referral form, or annotation reflecting the telephonically authorized referral as you would Form I-9. When you receive the certification, you must review the certification to ensure that it relates to the person hired and observe the person sign the certification. You must also retain the certification as you would a Form I-9 and make it available for inspection, if requested. You should check with your state employment agency to see if it provides this service and become familiar with its certification document.

Questions about Avoiding Discrimination

36. Q. What is the INA's Anti-Discrimination Provision?

- A. The Immigration and Nationality Act's (INA) anti-discrimination provision, codified at 8 U.S.C. § 1324b, is a law that prohibits four types of discriminatory unfair employment practices:
- Citizenship or immigration status discrimination with respect to hiring, firing, and recruitment or referral for a fee, by employers with four or more workers, subject to certain exceptions. Employers may not treat individuals differently because they are or are not U.S. citizens or because of their work-authorized immigration status. U.S. citizens, U.S. nationals, recent lawful permanent residents, asylees, and refugees are protected from citizenship status discrimination. An employer may restrict hiring to U.S. citizens

only when required to do so by law, regulation, executive order, or government contract.

- National origin discrimination with respect to hiring, firing, and recruitment or referral for a fee, by employers with four to 14 workers. Employers may not treat individuals differently because of their place of birth, country of origin, ancestry, native language, accent or because they are perceived as looking or sounding “foreign.” All work-authorized individuals are protected from national origin discrimination. The Equal Employment Opportunity Commission has jurisdiction over national origin discrimination claims against employers with 15 or more workers, regardless of the work authorization status of the discrimination victims.
- Unfair documentary practices related to verifying the employment eligibility of employees during the I-9 or E-Verify processes. Employers may not, on the basis of citizenship, immigration status, or national origin, request more or different documents than are required to verify employment eligibility and identity, reject reasonably genuine-looking documents, or specify certain documents over others. All work-authorized individuals are protected from unfair documentary practices.
- Intimidation or Retaliation. Employers may not intimidate, threaten, coerce, or retaliate against individuals who file charges with IER, who cooperate with an IER investigation, who contest an action that may constitute unfair documentary practices or discrimination based upon citizenship, immigration status, or national origin, or who otherwise assert their rights under the INA’s anti-discrimination provision.

37. Q. Can I limit hiring only to U.S. citizens?

A. Employers cannot limit positions to U.S. citizens only unless they are required to do so by a law, executive order, regulation, or government contract that requires specific positions to be filled only by U.S. citizens. If a job applicant is discouraged or rejected from employment based on citizenship status, the employer may be committing citizenship status discrimination in violation of the anti-discrimination provision of the INA.

38. Q. Can I refuse to hire someone based on national origin?

A. Failure to hire an individual based on the person’s national origin may violate the anti-discrimination provision of the INA if the employer employs between four and 14 employees, or may violate Title VII of the Civil Rights Act (enforced by the Equal Employment Opportunity Commission (EEOC)) if the employer has 15 or more employees. If a small employer has rejected your employment application based on your national origin, contact IER to determine whether IER or the EEOC has jurisdiction to assist you.

39. Q. Can I ask an employee to show a specific document for the Form I-9?

A. No. For employment eligibility verification, an employee must be allowed to choose which documents to show from the Form I-9 Lists of Acceptable Documents. If the documentation reasonably appears to be genuine and to relate to the employee, the employer must accept it. An employer may be violating the anti-discrimination provision of the INA if the employer requires an employee to show specific documents or more documents than required based on the employee’s citizenship, immigration status or national origin.

40. Q. Can I refuse to accept an employee’s documentation if I would prefer to see another type of documentation?

A. No. For employment eligibility verification, an employee must be allowed to choose which documents to show from the Form I-9 Lists of Acceptable Documents. If the documentation reasonably appears to be genuine and to relate to the employee, the employer must accept it. An employer may be violating the anti-discrimination provision of the INA if the employer rejects the valid documentation an employee presents based on the employee’s citizenship, immigration status or national origin.

41. Q. Can I ask my employee to show the same type of document for reverification as the employee showed to complete Section 2?

- A. No. For reverification, an employee may choose which unexpired List A or List C document to present. An employer may be violating the anti-discrimination provision of the INA if the employer requires an employee to show specific documents for reverification based on the employee's citizenship, immigration status or national origin.

For more information on these or any other discrimination-related questions, call IER's employer hotline at 1-800-255-8155 or 1-800-237-2515 (TTY). You can also visit IER's website at justice.gov/ier.

For more information on avoiding discrimination in the Form I-9 and E-Verify processes, visit justice.gov/ier.

Questions about Different Versions of Form I-9

42. Q. Is Form I-9 available in different languages?

- A. Form I-9 is available in English and Spanish. However, only employers in Puerto Rico may use the Spanish version to meet the verification and retention requirements of the law. Employers in the United States and other U.S. territories may use the Spanish version as a translation guide for Spanish-speaking employees, but the English version must be

completed and retained in the employer's records. Employees may also use or ask for a preparer and/or translator to assist them in completing the form.

43. Q. Are employers in Puerto Rico required to use the Spanish version of Form I-9?

- A. No. Employers in Puerto Rico may use either the Spanish or the English version of Form I-9 to verify new employees.

44. Q. May I continue to use earlier versions of Form I-9?

- A. No, employers must use the current version of Form I-9. A revision date with an "N" next to it indicates that all previous versions with earlier revision dates, in English or Spanish, are no longer valid. You may also use subsequent versions that have a "Y" next to the revision date. If in doubt, go to uscis.gov/i-9 to view or download the most current form.

45. Q. Where do I get the Spanish version of Form I-9?

- A. You may download the Spanish version of this form from the USCIS website at uscis.gov/i-9. For employers without internet access, you may call the USCIS Forms Request Line toll-free at 800-870-3676.

For more questions and answers on Form I-9 topics, go to uscis.gov/i-9-central and select I-9 Central Questions & Answers.