

# THE BASICS OF COMPLETING AND RETAINING AN EMPLOYEE'S FORM I-9

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U.S. employers are required to use Form I-9 to verify employment eligibility for all employees hired after November 6, 1986. The trick is to complete the form completely and accurately. If you're unsure how to do this, read below for tips to help you comply with federal laws.

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## Completing the Form

The portion of I-9 that requires completion is divided into three sections.

1. Section one is to be completed by the employee no later than the first day of employment, but not before a job offer has been accepted. Newly-hired employees must provide a Social Security number to employers who participate in E-Verify, even though it is a voluntary field on section one.
2. The documents provided by the employee are recorded in section two by the employer or the employer's authorized representative and must be completed within three business days of the first day of employment. If an employee is hired for fewer than three days, section two must be filled out on the first day of employment.
3. Section three is reserved for reverification and rehires, and is not necessarily completed for all employees. The employer is responsible for completing this section in the event that an employee's name changes, the employee is rehired by the company, or an employment authorization document expires. The employee might be required to produce a replacement document if the use of section three is required. In the event that a new I-9 is submitted, keep both the old one and the new one stored together.

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## Identification

In addition to completing a portion of the form, employees must present one or two forms of identification as evidence of identity and employment authorization. There are three types of documents, as defined in lists A, B, and C on the I-9.

Documents in List A establish identity and employment authorization, and therefore need not be presented with any other documents. A U.S. Passport is an example of a List A document. Documents in List B, such as a driver's license, establish identity, and documents from list C, such as a Social Security card, establish employment authorization. Documents from lists B and C may only be accepted in conjunction with each other. For example, a state-issued ID card with a photo, which establishes identity, is only acceptable if presented with a document from list C, such as an original or certified copy of a birth certificate.

Employers are not allowed to require specific documents, as this may constitute discrimination. Only unexpired, original documents, with the exception of a certified copy of a birth certificate, are acceptable. If the employer is an E-Verify participant, items from List B must include a photo. Receipts for some documents may be accepted by employers temporarily, such as in the event that an employee has applied for a new Social Security card and it has not arrived as of the first date of employment. Instructions for the correct way to document the acceptance of receipts are on the I-9, and also in the Handbook for Employers at <http://1.usa.gov/1PzRi6n>. This is a thorough guide to complying with Form I-9 requirements, which is provided by the USCIS.

Many employers choose to make copies of the documents presented by employees. This is an acceptable practice, as long as the employer applies it to all employees, and the copies of documents are kept with the form. Many experts advise against over-documentation. If an employee presents an unnecessary combination of documents, such as a passport and a driver's license, return the license and only record the passport information on the form.

## Retention

Employers carry the responsibility of ensuring that all sections of the I-9 are completed correctly, and they may be fined for missing or incomplete forms, or incorrect information. Conducting an internal I-9 audit is an employer's most valuable protection against incurring fines. Employers are required to retain the I-9 for the entire length of an employee's service. After employment ends, the form must be kept for either three years or one year after the last date of employment, whichever is later.

It is generally accepted as a best practice to store I-9s separately from personnel files. The forms and copies of documents may be stored on paper, electronically, or both, as long as the forms can be produced within three days of a request. USCIS provides guidance on storing I-9s electronically at <http://1.usa.gov/1UHKdkd>.



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