

Employment verification is a big hiring compliance requirement



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We all know that finding the right people to serve our members is critical to our success. While necessary, however, that is not sufficient. We cannot forget that lack of compliance with the employment verification form—the I-9—could represent a serious financial and legal threat to our branch offices and state associations.

In recent years, the federal government has escalated its efforts to oversee and enforce I-9 compliance, through workplace audits and raids, and the I-9 is more than just a compulsory onboarding employment form. It is a legal document requiring all employers (remember: that's you if you have anyone earning W-2

wages!) to verify their employees' immigration status under penalty of perjury. Noncompliance with those verification requirements is a civil violation and can result in heavy fines and penalties. Given this emphasis, I-9 compliance is more important than ever.

What should you do?

Here are some tips to protect your branch or state association against I-9-related penalties:

- First, remember to download the most up-to-date form at uscis.gov/sites/default/files/document/forms/i-9-paper-version.pdf, making as many copies as you need, or simply directing your employees to the easy-to-populate e-form.
- Section 1 of I-9 must be completed by each employee (again, anyone earning W-2 wages through your branch or state association) by his or her first day of work—the period of time after the job offer has been accepted and before the end of the employee's first day.
- Section 2 must be completed by you (the employer) within three business days of the date of hire.
- The instruction document and "List of Acceptable Documents" (page 3 of the Form I-9) should be made available to employees at the time they complete Section 1 of the form.

Employees are free to choose which legal documents they submit to establish their identity and eligibility to work in the United States. They must present original, unexpired documents in person to the company representative (a branch officer or other designated employee who is completing Section 2 of the I-9).

I-9s also should be stored in a secure location separate from personnel files. If photocopies of documents are made, they should be retained with the I-9s and presented during an investigation or audit by an authorized agency. Completed I-9s must be retained for as long as an individual is employed. I-9s for employees who have separated must be retained for three years after the date of hire (first day of work for pay) or one year after the date employment ends, whichever comes later.

Instances in which completing Form I-9 varies from the norm:

- **Reverification:** If the employee's work authorization document has an expiration date, you must reverify the employee's right to work prior to that expiration date. Also, when an employment authorization expiration date is provided in Section 1, you are required to reverify employment authorization on or before the date shown. The need for reverification is triggered by the document presented by the employee and by the box the employee checks in Section 1 of Form I-9. Branches should create a system to remind themselves when the employee's documents will expire and must be reverified. Reverification is not necessary for identity (List B) documents. U.S. passports, whether valid or expired, never require reverification, nor do alien registration or permanent resident cards.

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- **Rehires:** A new Form I-9 does not need to be completed for people rehired within three years of completing a prior Form I-9. Branches can instead update the prior Form I-9 by confirming that the employment eligibility document originally presented remains valid. If it does, you may merely record the rehire date in Section 3 of the form. However, if a new version of Form I-9 has been issued, the employee must provide documents from the current list of acceptable documents, and then you must complete the current version of Form I-9 and retain it with the previously completed I-9. Some branches and state associations find it easier to complete a new Form I-9 for all rehires.

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Employment verification (continued)

Auditing and correcting Form I-9

Overall, to ensure compliance with the law, you must accurately complete Form I-9 at the outset. Mistakes happen, however, and you may later discover errors on these forms. It is good practice to periodically audit and make any necessary corrections to the I-9s. Remember to make all corrections in a different color ink (red is suggested) to avoid the appearance of tampering with the timing or other compliance requirements. Some Form I-9 errors are technical and can be corrected, but others are substantive and could require new I-9s in addition to the original forms.

Important: Never backdate a form. Periodic self-audits and corrections may assist employers in demonstrating a good-faith effort to comply with the law in the event of a government audit.

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Temporary I-9 policies related to COVID-19

Due to precautions being implemented by employers and employees related to physical proximity associated with COVID-19, employers with employees taking physical proximity precautions due to COVID-19 will not be required to review the employee’s identity and employment autho-

rization documents in the employee’s physical presence. However, employers must inspect the Section 2 documents remotely (e.g., over video link, fax or email, etc.) within three business days for purposes of completing Section 2. Employers also should enter “COVID-19” as the reason for the physical inspection delay in the Section 2, Additional Information field once physical inspection takes place after normal operations resume.

Once the documents have been physically inspected, the employer should add “documents physically examined” with the date of inspection to the Section 2, Additional Information field on the Form I-9, or to Section 3 as appropriate. These provisions may be implemented by employers for a period of 60 days from the date of this notice or within three business days after the termination of the national emergency, whichever comes first.

This temporary guidance was set to expire Jan. 31. Because of ongoing precautions related to COVID-19, however, the Department of Homeland Security has extended the Form I-9 flexibility policy an additional 60 days, until March 31. Please note: Since this temporary guidance has been extended throughout the last year, it likely will be extended until the end of the pandemic. Please visit this website for ongoing guidance regarding future extensions: uscis.gov/i-9-central/form-i-9-related-news/temporary-policies-related-to-covid-19.

Given that both audits and raids are becoming more commonplace—and that the criminal penalties and fines are severe—it is critical that branches and state associations have a robust I-9 compliance practice in place.

Join the NALC Veterans Group

The NALC Veterans Group is designed to provide NALC members—both active and retired letter carriers—who are also military veterans the ability to connect with fellow NALC veterans and stay informed on issues of importance to letter carrier veterans. It is free to join.

Members receive a pin as a symbol of gratitude for your military service and membership in NALC.

If you are interested in joining the group, complete the sign-up card at right and mail it to the address included. **A fillable version is also available at nalc.org/veterans.**



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NALC Veterans Group

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