

Employer Requirements When Verifying Employee Eligibility

At the beginning of the employment relationship, an employer must confirm that every employee is eligible to work under the requirements of federal law. Employers verify the work status of their employees by completing an Employment Eligibility Verification form (Form I-9) for each new employee and for each employee whose work status must be re-verified. The employer must examine documents acceptable to the Form I-9, which are identified on the List of Acceptable Documents on the Form I-9.

When verifying or re-verifying employees, employers should ensure that they use the current Form I-9 with its updated list of acceptable documents for new employees. Employers do not need to complete new forms for existing employees. However, employers must use the I-9 when their employees require re-verification, such as when renewing work authorizations.

What Employers May and May Not Do

Employers may ask for documents that are listed on the List of Acceptable Documents on Form I-9. Employers must be careful, however, in requesting documentation. Employers may not request additional documents not listed on the Form I-9. Employers may not request other documents from employees if the employee presents sufficient documents that meet the requirements of Form I-9. Employers may not ask current employees to fill out a new Form I-9 if there is no need to re-verify the employment status of the employee. If the employer knows or suspects the employee is not authorized to work legally, the employer should seek legal advice in the proper investigation or termination of the employee. The employer may become subject to allegations of discrimination under federal law if the employer terminates the employee without actual knowledge that the employee is unauthorized to work.

This article is not intended as legal advice, but to provide information regarding federal requirements. You should contact the appropriate federal agency or consult with an attorney to determine what is appropriate to your specific situation.