



U.S. DEPARTMENT OF JUSTICE  
IMMIGRANT & EMPLOYEE RIGHTS SECTION  
CIVIL RIGHTS DIVISION

# REFUGEES AND ASYLEES HAVE THE RIGHT TO WORK

## INFORMATION FOR EMPLOYERS

**T**he Immigration and Nationality Act (INA) prohibits employers from discriminating against U.S. citizens and other work-authorized individuals based on their citizenship status or national origin. The Immigrant and Employee Rights Section (IER) in the U.S. Department of Justice's Civil Rights Division enforces this law, found at [8 U.S.C. § 1324b](#), and its regulations, found at [28 C.F.R. Part 44](#). This flyer is intended to help employers understand issues that may come up during hiring and while completing the employment eligibility verification process (Form I-9 and E-Verify) for a refugee or asylee.

### Background on Refugees and Asylees

Refugee and asylee status is granted to people who have been persecuted or fear persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Refugees' and asylees' permission to work does not expire because of their status. You can find more information on refugees' and asylees' work authorization status by contacting IER and at 8 C.F.R. 274a.12(a)(3)-(5).

### Refugee and Asylee Protections against Citizenship Status Discrimination

An employer cannot refuse to hire, or fire, an asylee or refugee based on citizenship status, unless a law, regulation, government contract, or executive order requires the employer to do so. 8 U.S.C. § 1324b(a)(1)(B). This exception is rare and does not apply to the vast majority of jobs. An employer that believes a certain position requires it to hire someone with a specific citizenship or immigration status should carefully review the legal support for the requirement and 8 U.S.C. § 1324b(a)(2)(C).

### Refugees, Asylees, and the Form I-9

#### Form I-9 Section 1

Refugees and asylees are "aliens authorized to work" and mark that box in Section 1 of the Form I-9. Because their permission to work does not expire, refugees and asylees write "N/A" in the expiration date field in Section 1.

**Form I-9 Section 2; Worker Chooses Documentation** Like other workers, refugees and asylees do not need to prove their citizenship or immigration status when they complete the Form I-9.



Under the Form I-9 instructions, refugees and asylees, like all other workers, can choose to present either an unexpired [List A](#) document, or an unexpired [List B](#) document together with an unexpired [List C](#) document to complete Section 2. The Form I-9 instructions explain that if any worker, including a refugee or asylee, decides to show a List B and a List C document, you are not allowed to ask or require the worker to present a List A document, such as a Department of Homeland Security document. Requesting a specific document based on a worker's citizenship status or national origin could violate the law at 8 U.S.C. § 1324b(a)(6). Find more information about a worker's right to choose documents by contacting IER.

Refugees and asylees may have a variety of documents that prove employment authorization. For example, refugees and asylees can show Employment Authorization Documents, Forms I-766 (EAD), but they don't have to. Refugees or asylees may have EADs that appear expired but qualify for an automatic extension and are still valid. If a refugee's or asylee's EAD has expired but the worker has applied to renew the EAD, the worker may be able to keep working with the existing EAD. For 180 days after the EAD's expiration date, the worker can present the EAD with an I-797C receipt notice showing that the government received the EAD renewal application.

For more information on automatic extensions of EADs, you can contact IER or USCIS, or read this [USCIS Fact Sheet](#), the [Handbook for Employers on Completing the Form I-9 Section 4.2](#), and 8 C.F.R. 274a.2(b)(1)(vii).

Refugees and asylees can show other documentation, for example, state identifications (List B document) and Social Security cards without employment restrictions (List C document). Refugees and asylees are eligible to receive [Social Security cards](#) with no employment restrictions, because they are lawfully admitted to the United States on a permanent basis.

A refugee may have a Form I-94 with a refugee admission stamp or a computer-generated Form I-94 printout with an admission class of "RE." Both versions of the I-94 are a type of Form I-9 document known as a receipt and valid for 90 days from the first day of work, after which the employee must show either an EAD or a combination of a List B document and an unrestricted Social Security card. Find more information on refugee Forms I-94 by contacting IER and at 8 C.F.R. 274a.2(b)(1)(vi)(C).

An asylee may have a Form I-94 with an asylum approval stamp. This Form I-94 is a permanent List C document that does not expire. The Form I-9 instructions do not require employers to reverify this document, and an employer that reverifies a worker when not required to, based on the worker's citizenship status or national origin, may violate the law at 8 U.S.C. § 1324b(a)(6). You can get more information by contacting IER and in the [Handbook for Employers](#).

### **Form I-9 Section 3**

If the Form I-9 instructions require you to reverify a refugee's or asylee's work authorization using Section 3 of the Form I-9, you must treat that worker as you would any other worker during the reverification process.

If a refugee or asylee presents an EAD for initial verification, you will reverify the worker's work authorization when the EAD expires. Upon reverification, workers can present any valid List A document or List C document, such as an unexpired EAD or an unrestricted Social Security card.

These are just some examples. The rules for when an employer must ask for documents again are discussed in the Handbook for Employers and at 8 C.F.R. 274a.2(b)(1)(vii). The [Form I-9 instructions](#) do not require employees to show a List B document for reverification.

Follow all Form I-9 rules consistently, regardless of an employee's citizenship, immigration status, or national origin, to avoid discriminating in violation of 8 U.S.C. § 1324b(a)(6).

### **Refugees and asylees may experience a delay in receiving a Social Security number (SSN).**

Although the Social Security Administration (SSA) and the Internal Revenue Service (IRS) require you to record an SSN for wage reporting purposes, once a worker has completed the Form I-9, the worker may start work and get paid for that work regardless of whether the worker is still waiting for an SSN. According to [IRS and SSA guidance](#), you can use "000-00-0000" or "applied for" in your payroll system until the employee provides you with the SSN.

If you use E-Verify, E-Verify instructs you to [delay creating the E-Verify](#) case until the worker has received an SSN. The worker may work during this time if the worker has completed the Form I-9. [E-Verify rules](#) specifically allow for this exception and provide instructions for creating the case. More information is available at [www.e-verify.gov](#) and at 8 U.S.C. § 1324a note Sect. 403(a)(1)(A).

#### **Immigrant and Employee Rights Section (IER)**

**1-800-255-8155**

[www.justice.gov/ier](#)

Calls can be anonymous and language services are available.

TTY 1-800-237-2515

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