



## Employer Fact Sheet

# How to Avoid Discrimination in the Form I-9 and E-Verify Processes

**This fact sheet discusses how you, as an employer, can avoid discrimination during the process of verifying an employee's permission to work in the United States.**

Employers verify employees' identity and permission to work by completing the Form I-9.

Some employers also use the E-Verify program. Employers that use E-Verify create E-Verify cases after completing the Form I-9 for an employee.

Federal law requires you to follow Form I-9 and E-Verify rules **consistently**, regardless of an employee's citizenship, immigration status, or national origin. This anti-discrimination law is found at [8 U.S.C. § 1324b](#).



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## Contact

For questions about this fact sheet, call the Civil Rights Division's **Immigrant and Employee Rights Section** at

**1-800-255-8155**

### Completing the Form I-9

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#### 1. Your employee completes Section 1

##### **Don't ask employees for documents for Section 1.**

Asking for documents for Section 1 could be unlawful, if based on an employee's citizenship, immigration status, or national origin.

Some employees who select "A noncitizen authorized to work" have permission to work that doesn't expire. These employees should write "N/A" in the Section 1 expiration date field.

The Social Security number field is optional unless you use E-Verify. But, even if you use E-Verify, employees who present sufficient documentation for Section 2 and are waiting for their Social Security number have satisfied the Form I-9. They can work while they wait for their Social Security number.

#### 2. You complete Section 2

##### **Allow employees to show their choice of acceptable documentation.**

Employees can present any documentation from the Lists of Acceptable Documents to prove their permission to work. All employees can choose to present either:

- Valid List A documentation, or
- Valid List B documentation together with valid List C documentation.

Employees can also show acceptable receipts.

##### **Don't ask employees to prove their citizenship or immigration status when they complete the Form I-9.**

Asking an employee for proof of citizenship or immigration status could be unlawful. For example, asking an employee who marks "U.S. citizen" to present a naturalization certificate or U.S. passport, or asking a lawful permanent resident to present a Permanent Resident Card, could be unlawful discrimination.

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### Some less common acceptable Form I-9 documents

**Employment Authorization Documents (EADs) that are valid past the expiration date on the card.** There are different kinds of [EAD automatic extensions](#). For some EAD extensions, the employee doesn't show any additional documentation. Other EAD extensions require the employee to present a receipt notice with their EAD.

**Receipt to [replace](#) a lost, damaged, or stolen List A, List B, or List C document.** This is valid for 90 days from the first day of work, or for reverification, 90 days from the expiration of the prior document.

**Form I-94 with a temporary I-551 stamp and photograph.** This is a [List A receipt](#) valid until the stamp's expiration date or, if no expiration date, one year from the date of issue.

**Form I-94 with a refugee stamp or notation.** This is a [List A receipt](#) valid for 90 days from the first day of work, or for reverification, 90 days from the expiration of the prior document.

**Form I-94 from certain Afghan and Ukrainian parolees.** This is a [List A receipt](#) and valid for 90 days from the first day of work, or for reverification, 90 days from the expiration of the prior document.

**Form I-94 with an asylum stamp.** This is a [List C document](#) that never expires.

**Form I-94 from certain employees with T or U visas.** This is a [List C document](#) valid through the "Admit Until" or "Valid Until" date. Sometimes, a T or U visa holder might be able to use their I-94 past the "Admit Until" or "Valid Until" date.

**Naturalization certificate.** This is a [List C document](#) that never expires.

#### Reminder:

**Rejecting valid documentation because of an upcoming expiration date could be unlawful.**

Call the Civil Rights Division's Immigrant and Employee Rights Section or USCIS to get more information to avoid rejecting valid documentation just because it is unfamiliar or because it is an older version. Learn more on [I-9 Central](#).

### 3. You complete Supplement B for reverification and rehire (when needed)

Complete Supplement B when you are **required** to check an employee's permission to work again, such as when an employee's temporary work authorization document expires. This additional verification is called "reverification."

You also can complete Supplement B in certain cases when you rehire an employee.

Follow the [Form I-9 instructions](#) for reverification.

**Do not reverify U.S. citizens' documents, U.S. nationals' documents, Permanent Resident Cards, or List B documents.** Asking employees for unnecessary documents based on the employee's citizenship, immigration status, or national origin, could be unlawful.

Employees can present any valid List A document or List C document for reverification. For example, an employee who presented an Employment Authorization Document for Section 2 may present an unrestricted Social Security card for reverification.

## Using E-Verify

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### If you use E-Verify:

**Use the program consistently** and without regard to an employee's citizenship, immigration status, or national origin.

Discrimination in the E-Verify process can be unlawful. Create an E-Verify case for every new hire. Learn more at [e-verify.gov](https://e-verify.gov). Using E-Verify for some workers and not others could be unlawful discrimination.

**Don't create an E-Verify case for someone before hiring them. Create a case only after completing a Form I-9.**

Don't request more documents for the E-Verify process. Employers create E-Verify cases using information from the documentation an employee already presented for the Form I-9. Requesting unnecessary documents based on

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citizenship status or national origin could be unlawful discrimination.

Wait to create an E-Verify case in some situations, such as if an employee is waiting for their Social Security number, or if employee presents certain receipts for Section 2. While you are waiting to create an E-Verify case for these employees, allow them to work just like any other employee.

Don't create E-Verify cases for employees when reverifying their permission to work.

Notify every employee who receives an E-Verify Tentative Nonconfirmation (also known as a mismatch). **Don't make assumptions about someone's permission to work based on an E-Verify mismatch.** If an employee receives an E-Verify mismatch, let the employee decide whether to take action to resolve the case.

**If an employee takes action on a mismatch, do not fire, suspend, modify a schedule, delay job placement or otherwise take any adverse action against the employee just because of the pending mismatch.**

Learn more about E-Verify rules at [e-verify.gov](https://e-verify.gov), the E-Verify MOU, and the [E-Verify User Manual](#).

*Updated August 2023*


### Contact

#### Civil Rights Division, Immigrant and Employee Rights Section (IER)


 Call the Employer Hotline at **1-800-255-8155**

For people with hearing disabilities  
**1-800-237-2515**


Calls can be anonymous.  
Free language services are available.

 To learn more, visit [justice.gov/ier](https://justice.gov/ier)

#### U.S. Citizenship and Immigration Services (USCIS)

 For questions on properly completing the Form I-9 and properly creating an E-Verify case, call **1-888-464-4218**

For people with hearing disabilities  
**1-877-875-6028**

 To learn more, visit [uscis.gov/i-9central](https://uscis.gov/i-9central)  
or [e-verify.gov](https://e-verify.gov)