How to Avoid Discrimination When Hiring Refugees and Asylees

This fact sheet provides information on asylees’ and refugees’ employment rights and how employers can avoid unlawfully discriminating against these workers.

An employer that discriminates based on someone’s citizenship, immigration status, or national origin might violate the Immigration and Nationality Act’s anti-discrimination provision. This 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.
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Background on refugees and asylees

The federal government grants refugee and asylee status to people who have been persecuted or fear persecution based on race, religion, nationality, membership in a particular social group, or political opinion.

Refugees and asylees have permission to live and work in the United States that doesn’t expire.

Refugee and asylee protections against citizenship status discrimination

An employer can’t fire or refuse to hire an asylee or refugee based on citizenship or immigration status, unless a law, regulation, government contract, or executive order requires the employer to do so. 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 to ensure it falls within the exception.

Denying a refugee or asylee the opportunity to work based on their citizenship or immigration status could violate the law.

Refugees, asylees, and the Form I-9

Form I-9 Section 1
Worker completes Section 1

Refugees and asylees should select “A Noncitizen Authorized to Work” in Section 1. 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 all workers, refugees and asylees do not need to prove their particular citizenship or immigration status when they complete the Form I-9. The purpose of the Form I-9 is to document a worker’s identity and their permission to work.

Under the Form I-9 instructions, refugees and asylees, like all workers, can choose to present acceptable documentation from List A, or a combination of documentation from List B and List C.
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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, employers 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, immigration status, or national origin might violate the Immigration and Nationality Act’s anti-discrimination provision.**

Call the Civil Rights Division’s Immigrant and Employee Rights Section (IER) for more information on workers’ right to choose which documents to show you for the Form I-9.

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**Information on Form I-9 documentation refugees and asylees might have**

Refugees and asylees may have a variety of documents that show their identity and their permission to work.

Refugees and asylees may choose to show an Employment Authorization Document (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 or asylee has applied to renew their EAD by the expiration date listed on the EAD, the worker may be able to keep working with the existing EAD. For a period of time after the EAD expiration date, the worker can continue working by showing you their EAD with the I-797C receipt notice (showing that the government received their EAD renewal application).

You can get more information on EAD automatic extensions and completing the Form I-9 in the Handbook for Employers M-274. You can also call IER for more information.

Refugees and asylees can show other documentation. For example, they can show state identification (List B document) together with a Social Security card without employment restrictions (List C document). Refugees and asylees are eligible to receive Social Security cards with no employment restrictions because of their immigration status.

A refugee may also 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
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are valid List A documents for 90 days from the first day of work, after which the worker must show either an EAD or a combination of a List B document and an unrestricted Social Security card. Call IER for more information on refugee Forms I-94.

Refugees can also use their unexpired Department of State-issued Transportation Boarding Letter as an acceptable List B document.

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 don’t require employers to reverify this document, and an employer that re verifies a worker when not required to, based on the worker’s citizenship, immigration status, or national origin might violate the law.

You can get more information by contacting IER and in the Handbook for Employers M-274.

Reverification information

If the Form I-9 instructions require you to reverify a refugee’s or asylee’s work authorization using the Form I-9, you must treat that worker as you would any other worker during the re verification process.

If a refugee or asylee presents an EAD for initial verification, you will reverify the worker’s permission to work when the EAD expires.

Upon re verification, workers can present any valid List A document or List C document, such as an unrestricted Social Security card or an unexpired (including automatically extended) EAD. Workers can also show a valid receipt.

These are just some examples. The rules for when an employer must ask for documents again are discussed in the Handbook for Employers M-274. Workers do not have to show a List B document for re verification.

Follow all Form I-9 rules consistently, regardless of an employee’s citizenship, immigration status, or national
Refugees and asylees can work while they wait for a Social Security number

Although the Social Security Administration and the Internal Revenue Service require you to record a Social Security number for wage reporting purposes, a worker may start work and get paid for that work once the worker has completed the Form I-9, even if the worker is still waiting for a Social Security number.

According to Internal Revenue Service and Social Security Administration guidance, you can use “000-00-0000” or “applied for” in your payroll system until the employee provides you with the Social Security number.

If you use E-Verify, E-Verify instructs you to delay creating the E-Verify case until the worker has received a Social Security number. 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 e-verify.gov.

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