



U.S. Department of Justice

Civil Rights Division

*Special Counsel for Immigration Related
Unfair Employment Practices - NYA
950 Pennsylvania Avenue, NW
Washington, DC 20530*

December 23, 2009

Via First Class Mail and E-mail (Brian@Hallidaylaw.com)

Brian J. Halliday, Esq.
The Law Offices of Brian J. Halliday, Inc.
3789 Green Road
Beachwood, Ohio 44122

Re: Technical Assistance Inquiry Regarding Reverification of Employee

Dear Mr. Halliday:

Thank you for your November 19, 2009, e-mail inquiry to the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC).

As you may know, OSC investigates allegations of national origin and citizenship status discrimination in the workplace, as well as discrimination in the employment eligibility verification process ("document abuse") and retaliation under the anti-discrimination provision of the Immigration and Nationality Act (INA), 8 U.S.C. § 1324b.

In your email, you present the following fact pattern. When a foreign national was initially hired, she presented a valid foreign passport and unexpired Machine Readable Immigrant Visa with the following notation "[u]pon endorsement serves as temporary I-551 evidencing permanent residence for 1 year." Before the one-year period expired, the employee completed a new Form I-9 indicating that she is a lawful permanent resident and she presented a valid state-issued identification card and an unrestricted social security card. Your email requests an advisory opinion on whether "the reverification requirement of an LPR employee who presented temporary I-551 printed notation on a MRIV [is] extinguished by a subsequent Form I-9 completed using a state ID and unrestricted social security card?"

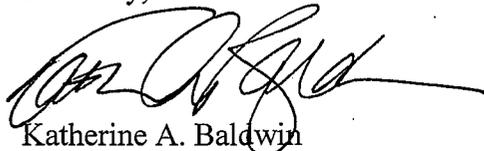
While this Office cannot give you an advisory opinion on any set of facts involving a particular individual or company, we can direct your attention to some information that the United States Citizenship and Immigration Services (USCIS) within the U.S. Department of Homeland Security has provided about the Employment Eligibility Verification Form I-9 process, and share general information regarding the requirements of the anti-discrimination provision of the INA.

USCIS Handbook for Employers, Instructions for Completing the Form I-9 (Form M-274, Rev. 07/31/09), List of Acceptable Documents, provides that a foreign passport that contains a temporary I-551 printed notation on a machine-readable immigrant visa (MRIV) is a valid List A document. *Handbook for Employers* at 43. When an MRIV expires, an employee must be reverified. *Handbook for Employers* at 12. Since the foreign passport that contains a temporary I-551 printed notation on a MRIV is a List A document, for reverification an employee only needs to show a List A or List C document. *Handbook for Employers* at 36. When an employee is reverified, the employee either completes Section 3 of Form I-9 or a new Form I-9; however, in either case, the employee only needs to show a List A or List C document. *Handbook for Employers* at 12. If an employee presents a List C document, an unrestricted Social Security card in this instance, no further verification is permitted going forward since the card does not expire.

As mentioned above, document abuse in the employment eligibility verification process is prohibited under the INA. Employers may not request more or different documents from or reject documents presented by lawful permanent residents in the Form I-9 process because of their citizenship status. This practice is prohibited under the INA. 8 U.S.C. § 1324b(a)(6).

I hope this information is helpful. Please contact OSC through our toll-free number at 1-800-255-8155 or oscrt@usdoj.gov, if you have further questions about this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine A. Baldwin", written over a horizontal line.

Katherine A. Baldwin
Deputy Special Counsel