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# Handbook for Employers

Instructions for Completing Form I-9  
(*Employment Eligibility Verification Form*)



If you have questions after reviewing this Handbook, please contact your local INS office at the address found in the back of this Handbook. Direct your letter to the attention of the *Employer Relations Offices*.

**DO NOT CONTACT THE INTERNAL REVENUE SERVICE (IRS)**



To United States Employers:

Thank you for your cooperation and assistance. For the past five years, you have worked with us to implement the employment eligibility verification and employer sanctions provisions of the Immigration Reform and Control Act of 1986. Your teamwork has made the law a success, ensuring fairness in applying the law and preserving jobs for those who are legally eligible to work -- citizens and nationals and aliens authorized to work in the United States.

Based on comments and suggestions received from the public and our experience in these first years, we have revised the *Employment Eligibility Verification Form* (I-9) and expanded this *Handbook for Employers*. We have sought to simplify and clarify.

This Handbook provides a step-by-step explanation of what you as an employer must do to meet your responsibilities under the law. It also explains the responsibilities and rights of employees in the hiring and verification process. We have included additional illustrations of documents that may be used to establish identity and employment eligibility. The Handbook also provides expanded information about how to avoid employment discrimination based on citizenship or national origin.

The Immigration and Naturalization Service thanks you for your compliance with these requirements, now an established part of our nation's laws. We are counting on your continued cooperation.

A handwritten signature in cursive script that reads "Gene McNary".

Gene McNary  
Commissioner  
Immigration and Naturalization Service

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This Handbook includes two copies of the Form I-9. At the back, you will also find a list of INS offices for you to contact if you need more information.

**United States Department of Justice**  
*Immigration and Naturalization Service*

November 1991

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# Part One

## Why Employers Must Verify Employment Eligibility of New Employees

In recent years, Congress has worked to reform our nation's immigration laws. These reforms, the result of a bipartisan effort, preserve our tradition of legal immigration while closing the door to illegal entry. The employer sanctions provisions, found at Section 274A of the Immigration and Nationality Act, were added by the Immigration Reform and Control Act of 1986 (IRCA). These provisions further changed with the passage of the Immigration Act of 1990. References to "the Act" in this Handbook refer to the Immigration and Nationality Act, as amended.

Employment is often the magnet that attracts persons to come to or stay in the United States illegally. The purpose of the employer sanctions law is to remove this magnet by requiring employers to hire only persons who may legally work here: citizens and nationals of the United States and aliens authorized to work. To comply with the law, you must verify the identity and employment eligibility of anyone you hire, and complete and retain a Form I-9 like the one contained in this Handbook.

In addition, the law obliges you not to discriminate against individuals on the basis of national origin or citizenship, or to require more or different documents from a particular individual. (See Part 4.)

This law has been strongly supported by the public. Employers have joined, and continue to join, the effort to protect our heritage of legal immigration. This cooperation has made jobs available to American citizens and to aliens who are authorized to work in our country. In addition to being the law, it is good business practice for you to verify the identity and employment eligibility of your workers. The law deserves your support.

The Form I-9 was developed for verifying that persons are eligible to work in the United States. You should have completed a Form I-9 for everyone you have hired after November 6, 1986. The law requires you as an employer to:

- \* Ensure that your employees fill out Section 1 of the Form I-9 when they start to work;

- \* Review document(s) establishing each employee's identity and eligibility to work;
- \* Properly complete Section 2 of the Form I-9;
- \* Retain the Form I-9 for 3 years after the date the person begins work or 1 year after the person's employment is terminated, **whichever is later**; and
- \* Make the Form I-9 available for inspection to an officer of the Immigration and Naturalization Service (INS), the Department of Labor (DOL), or the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) upon request. You will be given at least 3 days advance notice.

**NOTE:** *This does not preclude the INS, the DOL, or the OSC from obtaining warrants based on probable cause for entry onto the premises of suspected violators without advance notice.*

If you are an agricultural association, agricultural employer, or farm labor contractor who employs people, or recruits or refers people for a fee, these requirements apply to you. (See Part 6.)

If you employ anyone for domestic work in your private home on a regular basis (such as every week), these requirements apply to you.

If you are self-employed, you do not need to complete a Form I-9 on yourself unless you are also an employee of a business entity, such as a corporation or partnership, in which case the business entity is required to complete a Form I-9 on you.

The instructions in this Handbook will help you assess your responsibilities for completing the form and complying with the law.

## New Developments In the Law

### The Immigration Act of 1990

On November 29, 1990, the President signed into law the Immigration Act of 1990 which amended the Immigration and Nationality Act. You should be aware of several provisions in this new law which affect your responsibilities as an employer.

### New Anti-Discrimination Provisions

For the purpose of satisfying the employment eligibility verification requirements, an employer cannot request that an employee present more or different documents than are required. Also, an employer cannot refuse to honor documents which on their face reasonably appear to be genuine and to relate to the person presenting them. The new law makes these actions unfair immigration-related employment practices. (See Part 4.)

### New Document Fraud Provisions

Under the new law, it is unlawful for anyone knowingly to engage in any of the following activities for the purpose of satisfying a requirement of the Act:

- \* To forge, counterfeit, alter, or falsely make any document;
- \* To use, attempt to use, possess, obtain, accept, or receive any forged, counterfeit, altered, or falsely made document;
- \* To use or attempt to use any document lawfully issued to a person other than the possessor (including a deceased individual); or
- \* To accept or receive any document lawfully issued to a person other than the possessor (including a deceased individual) for the purpose of complying with the employment eligibility verification requirements. (See Part 5.)

## Where to Get the Form I-9

Two copies of the Form I-9 are included in this Handbook. If you need more forms, you can photocopy or print the forms, provided both sides are reproduced. The Instructions page must also be made available to both you and the employee during the completion of the form. You may obtain a limited number of copies from the INS or you may order them in bulk from the Superintendent of Documents at the following address:

Superintendent of Documents  
U.S. Government Printing Office  
Washington, D.C. 20402

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## Part Two

### When You Must Complete the Form I-9

Every time you hire any person to perform labor or services in return for wages or other remuneration, you must complete the Form I-9. This requirement applies to everyone hired after November 6, 1986.

Ensure that the employee fully completes **Section 1** of the form at the time of the hire -- **when the employee begins work.**

Review the employee's document(s) and fully complete **Section 2** of the form **within 3 business days** of the hire.

**If you hire a person for less than 3 business days, Sections 1 and 2 of the Form I-9 must be fully completed at the time of the hire -- when the employee begins work.**

You **DO NOT** need to complete a Form I-9 for:

- \* Persons hired before November 7, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times;
- \* Persons you employ for casual domestic work in a private home on a **sporadic, irregular, or intermittent** basis;
- \* Persons who are independent contractors; or
- \* Persons who provide labor to you who are employed by a contractor providing contract services (e.g., employee leasing).

**NOTE:** *You cannot contract for the labor of an alien if you know the alien is not authorized to work in the United States.*

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## Part Three

### How to Complete the Form I-9

#### Section 1

- \* Have your employees complete Section 1 at the time of the hire -- when they begin to work -- by filling in the correct information and signing and dating the form.
- \* If your employees cannot complete Section 1 by themselves or if they need the form translated, someone may assist them. The preparer or translator must read the form to the employee, assist him or her in completing Section 1, and have the employee sign or mark the form in the appropriate place. The preparer or translator must then complete the Preparer/Translator Certification block on the Form I-9.
- \* You are responsible for reviewing and ensuring that your employees fully and properly complete Section 1.

#### Section 2

- \* Employees must present to you an original document or documents that establish identity and employment eligibility within 3 business days of the date employment begins. Some documents establish **both** identity and employment eligibility (List A). Other documents establish **identity only** (List B) or **employment eligibility only** (List C). Employees can choose which document(s) they want to present from the lists of acceptable documents. These lists appear in Part 8 of this Handbook and on the back of the Form I-9.
- \* You must examine the original document or documents presented by the employee and then fully complete Section 2 of the Form I-9. You must examine one document from List A **or** one from List B and one from List C. Record the title, issuing authority, number, and expiration date (if any) of the document(s); fill in the date of hire and correct information in the certification block; and sign and date the Form I-9. You **must** accept any document(s) (from List A) or combination of documents (one from List B **and** one from List C) presented by the individual which reasonably appear on their face to be genuine and to relate to the person presenting them. You may not specify which document(s) an employee must present.

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- \* It employees are unable to present the required document(s) within 3 business days of the date employment begins, they must present a **receipt** for the application for the document(s) within 3 business days. The employees **must** have indicated, by having checked an appropriate box in Section 1, that they are already eligible to be employed in the United States. When they provide you with a receipt showing that they have applied for a document evidencing that eligibility, you should record the document title in Section 2 of the Form I-9 and write the word "receipt" and any document number in the "Document #" space. The employee must present the actual document within 90 days of the date employment begins. At that time, you should cross out the word "receipt" and any accompanying document number, insert the number from the actual document presented, and initial and date the change.
  - \* You must retain the Form I-9 for 3 years after the date employment begins or 1 year after the person's employment is terminated, **whichever is later**.

#### Future Expiration Dates

Future expiration dates may appear on the Form I-9 or on the employment authorization documents of aliens, including, among others, permanent residents, temporary residents, and refugees. INS includes expiration dates even on documents issued to aliens with permanent work authorization. The existence of a future expiration date:

- \* Does not preclude continuous employment authorization;
- \* Does not mean that subsequent employment authorization will not be granted; and
- \* Should not be considered in determining whether the alien is qualified for a particular position.

Consideration of a future employment authorization expiration date in determining whether an alien is qualified for a particular job may constitute employment discrimination. (See Part 4.) You will, however, need to reverify the employee's eligibility to work when any expiration date on the Form I-9 is reached.

#### Reverifying Employment Authorization for Current Employees

When an employee's work authorization expires, you must reverify his or her employment eligibility. You may use Section 3 of the Form I-9 or, if Section 3 has already been used for a previous reverification or update, use a new Form I-9. If you use a new form, you should write the employee's name in Section 1, complete Section 3, and retain the new form with the original. The employee must present a document that shows either an extension of the employee's initial employment authorization or now work authorization. If the employee cannot provide you with proof of current work authorization, you cannot continue to employ that person.

**To maintain continuous employment eligibility, an employee with temporary work authorization should apply for new work authorization at least 90 days before the current expiration date.** If the Service fails to adjudicate the application for employment authorization within 90 days, then the employee will be authorized for employment on Form I-688B for a period not to exceed 240 days.

***You must reverify on the Form I-9 not later than the date the employee's work authorization expires.***

#### Reverifying or Updating Employment Authorization for Rehired Employees

When you rehire an employee, you must ensure that he or she is still authorized to work. You may do this by completing a new Form I-9 or you may reverify or update the original form by completing Section 3.

If you rehire an employee who has previously completed a Form I-9, you may **reverify** on the employee's original Form I-9 (or on a new Form I-9 if Section 3 of the original has already been used) if:

- \* You rehire the employee within 3 years of the initial date of hire; and
- \* The employee's previous grant of work authorization has expired but he or she is currently eligible to work on a **different** basis or under a **new** grant of work authorization than when the original Form I-9 was completed.

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To reverify, you must:

- \* Record the date of rehire;
- \* Record the document title, number, and expiration date (if any) of any document(s) presented;
- \* Sign and date Section 3; and
- \* If you are reverifying on a new form, write the employee's name in Section 1.

If you rehire an employee who has previously completed a Form I-9, you may **update** on the employee's original Form I-9 or on a new Form I-9 if:

- \* You rehire the employee within 3 years of the initial date of hire; and
- \* The employee is still eligible to work on the **same** basis as when the original Form I-9 was completed.

To update, you must:

- \* Record the date of rehire;
- \* Sign and date Section 3; and
- \* If you are updating on a new form, write the employee's name in Section 1.

In all of the situations described above with respect to rehired employees, you always have the option of completing Sections 1 and 2 of a new Form I-9 instead of completing Section 3.

### Minors (Individuals Under Age 18)

If a minor -- a person under the age of 18 -- cannot present a List A document or an **identity** document from List B, the Form I-9 should be completed in the following way:

- \* A parent or legal guardian must complete Section 1 and write "Individual under age 18" in the space for the employee's signature;
- \* The parent or legal guardian must complete the "Preparer/Translator Certification" block;

- \* You should write "Individual under age 18" in Section 2, List B, in the space after the words "Document #"; and

- \* The minor must present a List C document showing his or her employment eligibility. You should record the required information in the appropriate space in Section 2.

### Handicapped Employees (Special Placement)

If a person with a handicap, who is placed in a job by a nonprofit organization or as part of a rehabilitation program, cannot present a List A document or an **identity** document from List B, the Form I-9 should be completed in the following way:

- \* A representative of the nonprofit organization, or a parent or a legal guardian, must complete Section 1 and write "Special Placement" in the space for the employee's signature;

- \* The representative, parent, or legal guardian must complete the "Preparer/Translator Certification" block;

- \* You should write "Special Placement" in Section 2, List B, in the space after the words "Document #"; and

- \* The handicapped employee must present a List C document showing his or her employment eligibility. You should record the required information in the appropriate space in Section 2.

**Section 1 - To be completed by the EMPLOYEE**

**STEP 1**

Fill in the personal information.

**STEP 2**

Check the box for work eligibility. Fill in other information if applicable.

**STEP 3**

Read, sign, and date.

**STEP 4**

*(Preparer/Translator only)*

Read, fill in information, sign, and date.



U.S. Department of Justice Immigration and Naturalization Service		OMB No. 1545-0046 Employment Eligibility Verification	
Please read instructions carefully before completing this form. The instructions must be available during completion of this form. ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.			
<b>Section 1. Employee Information and Verification.</b> To be completed and signed by employee at the time employment begins.			
Part Name - Last <i>Svensson, Tony</i>	First Name <i>Tony</i>	Middle Initial <i>Jr.</i>	Marital Status <i>N/A</i>
Address (Street Name and Number) <i>112 Cambridge</i>		City <i>Baltimore, Md.</i>	State <i>Md.</i>
Zip Code <i>21223</i>		Social Security # <i>27-97-1016</i>	
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.		I attest, under penalty of perjury, that any other one of the following: <input type="checkbox"/> A citizen or national of the United States. <input type="checkbox"/> A Lawful Permanent Resident (Green Card). <input checked="" type="checkbox"/> A valid document in which I am: Alien # 2 Addition # <i>AN 75 2-1-88</i>	
Employer's Signature <i>John A. Walsh</i>		Date of Signature <i>9/14/92</i>	
<b>Preparer and/or Translator Certification.</b> To be completed and signed if Section 1 is completed by a person other than the employee. I attest, under penalty of perjury, that these documents are true, correct and true to the best of my knowledge and information.			
Preparer's/Translator's Signature		Print Name	
Address (Street Name and Number, City, State, Zip Code)		Date of Signature	

**Section 2 - To be completed by the EMPLOYER**

**STEP 5**

Examine the document(s) and fill in the document title, issuing authority, number, and expiration date (if any) in the space provided.

**STEP 6**

Read, fill in information (including the date employment begins in the certification), sign, and date.



<b>Section 2. Employer Review and Verification.</b> To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, date of issue, expiration date, type, and the document(s).				
List A	OR	List B	AND	List C
Document Title: <i>PASSPORT TO SWEDEN</i>				
Issuing Authority: <i>Sweden</i>				
Document #: <i>S 93211</i>				
Expiration Date (if any): <i>9-11-92</i>				
Document #: <i>6011502730</i>				
Federal or State of issue: <i>9-11-92</i>				
CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employer began employment on (initially) <i>9-11-92</i> and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)				
Signature of Employer or Authorized Representative <i>J. A. Walsh</i>		Print Name <i>Joseph W. Walsh</i>		Title <i>President</i>
Address (Street Name and Number, City, State, Zip Code) <i>Joseph Walsh Inc. 407 N. Main Cambridge</i>		Date of Signature <i>9/14/92</i>		

**Section 3 - To be completed by the EMPLOYER**

**STEP 7**

Fill in the new name and/or date of rehire (if applicable).

**STEP 8**

Examine the document(s) and fill in the document title, number, and expiration date (if any) in the space provided.

**STEP 9**

Read, sign, and date.



<b>Section 3. Updating and Reverification.</b> To be completed and signed by employer.			
A. New Name (if applicable): <i>INBA Svensson -- Jones</i>	B. Date of rehire (month/day/year) (if applicable): <i>N/A</i>		
C. If employer's previous use of work authorization has expired, provide the information below for the document that establishes current employment.			
Document Title: <i>Alien Reentry Card</i>	Document #: <i>A-551</i>	Expiration Date (if any): <i>9-11-92</i>	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.			
Signature of Employer or Authorized Representative <i>J. A. Walsh</i>		Date of Signature <i>9/14/92</i>	



Part Three of this Handbook gives instructions for completing the Form I-9 for minors and handicapped individuals who are unable to present a List A

document or a List B (**identity**) document. This example shows a completed Form I-9 in which a parent has attested to a minor employee's identity.

**Section 1. To be completed by the PARENT, LEGAL GUARDIAN, OR REPRESENTATIVE OF THE NONPROFIT ORGANIZATION**

**STEP 1**

Fill in the personal information.

**STEP 2**

Check the box for work eligibility. Fill in other information as required.

**STEP 3**

Read, then write "Individual under age 18" in the space for the employee's signature.

**STEP 4**

(Preparer/Translator)  
Read, fill in information, sign, and date.



**U.S. Department of Justice**  
Immigration and Naturalization Service

(OMB No. 1545-0045)  
**Employment Eligibility Verification**

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. **ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Verification.** To be completed and signed by employee or authorized representative.

Print Name: Last <u>Smith</u> First <u>Mary</u> Middle Initial <u>E</u>	Date of Birth (Month/Day/Year) <u>N/A</u>
Address (Street Name and Number) <u>4502 Birch Lane</u>	City <u>Denmore TN</u> State <u>TN</u> Zip Code <u>37832</u>
City <u>Denmore</u> State <u>TN</u> Zip Code <u>37832</u>	Employer's Signature <u>Individual Under Age 18</u> Title (Print/Type) _____

I am aware that Federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):  
 a citizen or national of the United States  
 a lawful permanent resident alien or a  
 an alien authorized to work in the U.S. (attach a copy of the document)

**Preparer and Translator Certification.** To be completed and signed if Section 1 is completed by a person other than the employee. I attest, under penalty of perjury, that I have examined the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer/Translator's Signature John Smith Print Name JOHN SMITH  
 Address (Street Name and Number, City, State, Zip Code) 4502 Birch Lane Denmore TN 37832 Telephone (City code) 904/91

**Section 2 - To be completed by the EMPLOYER**

**STEP 5**

Examine a List C document establishing employment eligibility. Fill in the document title, issuing authority, number, and expiration date (if any) in the space provided. Under List B, write "Individual under age 18" in the space provided for "Document #."

**STEP 6**

Read, fill in information, sign, and date.



**Section 2. Employer Review and Verification.** To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, number and expiration date, if any, of the document(s).

Document title _____	Issuing authority _____	Document # _____	Expiration Date (if any) _____
Document # _____	Expiration Date (if any) _____	<b>CERTIFICATION</b> I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/year) <u>9/1/91</u> and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)	

Signature of Employer or Authorized Representative J. W. Walsh Print Name Joseph W. Walsh Title President  
 Address (Street Name and Number, City, State, Zip Code) Joseph Walsh Inc 207 N Main Denmore TN 37832 Date (month/day/year) 9/1/91

**Section 3. Updating and Reverification.** To be completed and signed by employer.

A. New Hire (if applicable) \_\_\_\_\_ B. Date of next (or subsequent) year(s) re-employment \_\_\_\_\_

C. If employee's previous grant of work authorization has expired, provide the information below for the job from the established current employment eligibility.

Document title \_\_\_\_\_ Document # \_\_\_\_\_ Expiration Date (if any) \_\_\_\_\_

I attest, under penalty of perjury that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative \_\_\_\_\_ Date (month/day/year) \_\_\_\_\_

Form I-9 (11-21-91) N

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# Part Four

## Unlawful Discrimination

### General Provisions

The Immigration and Nationality Act, as amended, and Title VII of the Civil Rights Act of 1964, as amended, prohibit employment discrimination. Employers with 4 or more employees are prohibited from discriminating against any person (other than an unauthorized alien) in hiring, discharging, or recruiting or referring for a fee because of a person's national origin, or in the case of a citizen or protected individual, because of a person's citizenship status. Employers with 15 or more employees may not discriminate against any person on the basis of national origin in hiring, discharge, recruitment, assignment, compensation, or other terms and conditions of employment.

**NOTE:** *For the definition of a "protected individual," see Question #41 on Page 18 of this Handbook.*

In practice, this means that employers must treat all employees the same when completing the Form I-9. Employers cannot set different employment eligibility verification standards or require that different documents be presented by different groups of employees. Employees can choose which documents they want to present from the lists of acceptable documents. An employer cannot request that an employee present more or different documents than are required or refuse to honor documents which on their face reasonably appear to be genuine and to relate to the person presenting them. An employer cannot refuse to accept a document, or refuse to hire an individual, because a document has a future expiration date. For example, temporary resident aliens have registration cards and persons granted asylum have INS work authorization documents that will expire, but they are ordinarily granted extensions of their employment authorization and they are protected by law from discrimination.

Generally, employers who have 4 or more employees cannot limit jobs to United States citizens to the exclusion of authorized aliens. Such a limitation may only be applied to a specific position when required by law, regulation, or executive order; when required by a Federal, state, or local government contract; or when the Attorney General determines that United States citizenship is essential for doing business with an agency or department of the Federal, state, or local government.

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On an individual basis, an employer may legally prefer a United States citizen or national over an **equally** qualified alien to fill a specific position. **However, an employer may not adopt a blanket policy of always preferring a qualified citizen over a qualified alien.**

Verification of identity and employment eligibility is not required until an individual actually starts work. The Form I-9 should be completed at the same point in the employment process for **all** employees. Different procedures should not be established based on an individual's appearance, name, accent, or other factors.

### Procedures for Filing Complaints

Discrimination charges may be filed by an individual who believes he or she is the victim of employment discrimination, a person acting on behalf of such an individual, or an INS officer who has reason to believe that discrimination has occurred.

Charges of national origin discrimination against employers with 4 to 14 employees, and all charges of citizenship status discrimination against employers with 4 or more employees, should be filed with the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) within the Department of Justice.

Discrimination charges must be filed with the OSC within 180 days of the discriminatory act. Upon receipt of a discrimination charge, the OSC will notify the employer within 10 days that the charges have been filed and that an investigation will be conducted. If the OSC has not filed a complaint with an administrative law judge within 120 days of receiving a charge of discrimination, it will notify the person making the charge of its determination not to file a complaint. The person making the charge (other than an INS officer) may file a complaint with an administrative law judge within 90 days after receiving the notice from the OSC. In addition, the OSC may still file a complaint within this 90-day period. The administrative law judge will conduct a hearing and issue a decision.

An employer is prohibited from taking retaliatory action against a person who has filed a charge of discrimination or who was a witness or otherwise participated in the investigation of another person's complaint. Such retaliatory action is a violation of the Act's anti-discrimination provision and of Title VII.

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### Additional Information

For more information about immigration-related discrimination, contact the Office of Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 65490, Washington, D.C., 20035-5490, or call 1-800-255-7688 or for the hearing impaired TDD 1-800-237-2515. In Washington, D.C., call (202) 653-8121 or TDD (202) 296-0168.

For more information on Title VII and policies and procedures of the Equal Employment Opportunity Commission, call 1-800-USA-EEOC.

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## Part Five

### Penalties for Prohibited Practices

#### A. UNLAWFUL EMPLOYMENT

##### 1. Civil Penalties

If an investigation reveals that an employer has knowingly hired or knowingly continued to employ an unauthorized alien, or has failed to comply with the employment eligibility verification requirements, with respect to employees hired after November 6, 1986, the INS may take action. When the INS intends to impose penalties, a Notice of Intent to Fine (NIF) is issued. Employers who receive a NIF may request a hearing before an administrative law judge. If a request for a hearing is not received within 30 days, the penalty will be imposed and a Final Order will be issued. When a Final Order is issued, the penalty is final and unappealable.

- Hiring or continuing to employ unauthorized aliens

Employers determined to have knowingly hired unauthorized aliens (or to be continuing to employ aliens knowing that they are or have become unauthorized to work in the United States) may be ordered to cease and desist from such activity, and pay a civil money penalty as follows:

- First Offense. Not less than \$250 and not more than \$2,000 for each unauthorized alien;
- Second Offense. Not less than \$2,000 and not more than \$5,000 for each unauthorized alien; or
- Subsequent Offenses. Not less than \$3,000 and not more than \$10,000 for each unauthorized alien.

After November 6, 1986, if an employer uses a contract, subcontract, or exchange entered into, renegotiated, or extended, to obtain the labor of an alien and knows the alien is not authorized to work in the United States, the employer will be considered to have knowingly hired an unauthorized alien. The employer will be subject to the penalties set forth above.

\* Failing to comply with the Form I-9 requirements

Employers who fail to properly complete, retain, and/or make available for inspection Forms I-9 as required by law may face civil money penalties of not less than \$100 and not more than \$1,000 for each employee for whom the Form I-9 was not properly completed, retained, and/or made available.

\* Requiring indemnification

Employers found to have required a bond or indemnity from an employee against liability under the employer sanctions laws may be ordered to pay a civil money penalty of \$1,000 for each violation and to make restitution, either to the person who was required to pay the indemnity, or, if that person cannot be located, to the United States Treasury.

\* Good faith defense

If an employer can show that he or she has complied with the Form I-9 requirements, then the employer has established a "good faith" defense with respect to a charge of knowingly hiring an unauthorized alien, unless the government can show that the employer had actual knowledge of the unauthorized status of the employee.

## 2. Criminal Penalties

\* Engaging in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens

Persons or entities who are convicted of having engaged in a pattern or practice of knowingly hiring unauthorized aliens (or continuing to employ aliens knowing that they are or have become unauthorized to work in the United States) after November 6, 1986, may face fines of up to \$3,000 per employee and/or 6 months imprisonment.

\* Engaging in fraud or false statements, or otherwise misusing visas, immigration permits, and identity documents

People who use fraudulent identification or employment eligibility documents, or documents that were lawfully issued to another person, or who make a false statement or attestation for purposes of satisfying the employment eligibility verification requirements, may be fined, or imprisoned for up to 5 years, or both.

## B. UNLAWFUL DISCRIMINATION

If an investigation reveals that an employer has engaged in unfair immigration -related employment practices under the Act, the OSC or the EEOC may take action. An employer will be ordered to stop the prohibited practice and may be ordered to take one or more of the following steps:

- \* Hire or reinstate, with or without back pay, individuals directly injured by the discrimination;
- \* Lift any restrictions on an employee's assignments, work shifts, or movements;
- \* Post notices to employees about their rights and about employers' obligations;
- \* Educate all personnel involved in hiring and in complying with the employer sanctions and anti-discrimination laws about the requirements of these laws; and/or
- \* Remove a false performance review or false warning from an employee's personnel file.

Employers may also be ordered to pay a civil money penalty as follows:

- \* First Offense. Not less than \$250 and not more than \$2,000 for each individual discriminated against;
- \* Second Offense. Not less than \$2,000 and not more than \$5,000 for each individual discriminated against;
- \* Subsequent Offenses. Not less than \$3,000 and not more than \$10,000 for each individual discriminated against; or
- \* Unlawful Request for More or Different Documents. Not less than \$100 and not more than \$1,000 for each individual discriminated against.

Employers may also be ordered to keep certain records regarding the hiring of applicants and employees. If a court decides that the losing party's claim has no reasonable basis in fact or law, the court may award attorneys' fees to prevailing parties other than the United States.

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## C. CIVIL DOCUMENT FRAUD

If an investigation reveals that an individual has knowingly committed or participated in acts relating to document fraud (see Part 1), the INS may take action. When the INS intends to impose penalties, a Notice of Intent to Fine (NIF) is issued. Persons who receive a NIF may request a hearing before an administrative law judge. If a request for a hearing is not received within 30 days, the penalty will be imposed and a Final Order will be issued. When a Final Order is issued, this penalty is final and unappealable.

Individuals may be ordered to pay a civil money penalty as follows:

- \* **First Offense.** Not less than \$250 and not more than \$2,000 for each fraudulent document used, accepted, or created and each instance of use, acceptance, or creation; or
- \* **Subsequent Offenses.** Not less than \$2,000 and not more than \$5,000 for each fraudulent document used, accepted, or created and each instance of use, acceptance, or creation.

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## Part Six

### Instructions for Recruiters and Referrers for a Fee

Under the Immigration and Nationality Act, as amended by the Immigration Act of 1990, it is unlawful for an agricultural association, agricultural employer, or farm labor contractor to hire, or to recruit or refer for a fee, an individual for employment in the United States without complying with the employment eligibility verification requirements. This provision applies to those agricultural associations, agricultural employers, and farm labor contractors who **recruit** persons for a fee and those who **refer** persons or provide documents or information about persons to employers in return for a fee.

**This limited class of recruiters and referrers for a fee must complete the Form I-9 when a person they refer is hired.** The Form I-9 must be fully completed within 3 business days of the date employment begins, or, in the case of an individual hired for less than 3 business days, at the time employment begins.

Recruiters and referrers for a fee may designate agents, such as national associations or employers, to complete the verification procedures on their behalf. If the employer is designated as the agent, the employer should provide the recruiter or referrer with a photocopy of the Form I-9. However, recruiters and referrers are still responsible for compliance with the law and may be found liable for violations of the law.

Recruiters and referrers for a fee must retain the Form I-9 for 3 years after the date the referred individual was hired by the employer. They must also make available Forms I-9 for inspection to an INS, DOL, or OSC officer after 3 days (72 hours) advance notice.

**NOTE:** *This does not preclude the INS, the DOL, or the OSC from obtaining warrants based on probable cause for entry onto the premises of suspected violators without advance notice.*

The penalties for failing to comply with the Form I-9 requirements and for requiring indemnification, as described in Part 5, apply to this limited class of recruiters and referrers for a fee.

**NOTE:** *All recruiters and referrers for a fee are still liable for knowingly recruiting or referring for a fee aliens not authorized to work in the United States.*

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## Part Seven

### Some Questions You May Have About the Form I-9

#### Questions About the Verification Process

1. **Q. Do citizens and nationals of the United States need to prove they are eligible to work?**
- A. Yes. While citizens and nationals of the United States are automatically eligible for employment, they too must present the required documents and complete an I-9. Citizens of the United States include persons born in Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands. Nationals of the United States include persons born in American Samoa, including Swains Island.
2. **Q. Do I need to complete an I-9 for everyone who applies for a job with my company?**
- A. No. You need to complete I-9s only for people you actually hire. For purposes of this law, a person is "hired" when he or she begins to work for you.
3. **Q. If someone accepts a job with my company but will not start work for a month, can I complete the I-9 when the employee accepts the job?**
- A. Yes. The law requires that you complete the I-9 only when the person actually begins working. However, you may complete the form earlier, as long as you complete the form **at the same point** in the employment process for **all** employees.
4. **Q. I understand that I must complete an I-9 for anyone I hire to perform labor or services in return for wages or other remuneration. What is "remuneration"?**
- A. Remuneration is anything of value given in exchange for labor or services rendered by an employee, including food and lodging.
5. **Q. Do I need to fill out an I-9 for independent contractors or their employees?**
- A. No. For example, if you contract with a construction company to perform renovations on your building, you do not have to complete I-9s for that company's employees. The construction company is responsible for completing the I-9s for its own employees. However, you must not knowingly use contract labor to circumvent the law against hiring unauthorized aliens.
6. **Q. What should I do if the person I hire is unable to provide the required documents within 3 business days of the date employment begins?**
- A. If an employee is unable to present the required document or documents within 3 business days of the date employment begins, the employee must produce a receipt showing that he or she has applied for the document. In addition, the employee must present the actual document to you within 90 days of the hire. The employee **must** have indicated on or before the time employment began, by having checked an appropriate box in Section 1, that he or she is already eligible to be employed in the United States.
- NOTE:** Employees hired for less than 3 business days must produce the actual document(s) and the I-9 must be fully completed at the time employment begins.*
7. **Q. Can I fire an employee who fails to produce the required documents within 3 business days?**
- A. Yes. You can terminate an employee who fails to produce the required document or documents, or a receipt for a document, within 3 business days of the date employment begins. **However, you must apply these practices uniformly to all employees.** If an employee has presented a receipt for a document, he or she must produce the actual document within 90 days of the date employment begins.

8. **Q. What happens if I properly complete a Form I-9 and INS discovers that my employee is not actually authorized to work?**

A. You cannot be charged with a verification violation. You will also have a good faith defense against the imposition of employer sanctions penalties for knowingly hiring an unauthorized alien, unless the government can show you had actual knowledge of the unauthorized status of the employee, if you have done the following:

- Ensured that employees fully and properly completed Section 1 of the I-9 at the time employment began;
- Reviewed the required documents which should have reasonably appeared to have been genuine and to have related to the person presenting them;
- Fully and properly completed Section 2 of the I-9, and signed and dated the employer certification;
- Retained the I-9 for the required period of time; and
- Made the I-9 available upon request to an INS, DOL, or OSC officer.

#### **Questions About Documents**

9. **Q. May I specify which documents I will accept for verification?**

A. No. The employee can choose which document(s) he or she wants to present from the lists of acceptable documents. You **must** accept any document (from List A) or combination of documents (one from List B and one from List C) listed on the I-9 and found in Part 8 of this Handbook which reasonably appear on their face to be genuine and to relate to the person presenting them. To do otherwise could be an unfair immigration-related employment practice. Individuals who look and/or sound foreign must not be treated differently in the hiring or verification process.

10. **Q. If an employee writes down an Alien Number or Admission Number when completing Section 1 of the I-9, can I ask to see a document with that number?**

A. No. Although it is your responsibility as an employer to ensure that your employees fully complete Section 1 at the time employment begins, there is no requirement that employees present **any** document to complete this section.

When you complete Section 2, you may not ask to see a document with the employee's Alien Number or Admission Number or otherwise specify which document(s) an employee may present.

11. **Q. What is my responsibility concerning the authenticity of document(s) presented to me?**

A. You must examine the document(s) and, if they reasonably appear on their face to be genuine and to relate to the person presenting them, you must accept them. To do otherwise could be an unfair immigration-related employment practice. If the document(s) do not reasonably appear on their face to be genuine or to relate to the person presenting them, you must not accept them.

12. **Q. Why are certain documents listed in both List B and List C? If these documents are evidence of both identity and employment eligibility, why aren't they found in List A?**

A. Three documents can be found in both List B and List C- the U.S. Citizen ID Card and the ID Card for use of Resident Citizen in the U.S. -- acceptable as ID Cards in List B -- and a Native American tribal document. Although these documents are evidence of both identity and employment eligibility, they are not found in List A because List A documents are limited to those designated by Congress in the law. An employee can establish both identity and employment eligibility by presenting one of these documents. You should record the document title, issuing authority, number, and expiration date (if any) for that document in the appropriate spaces for **both** list B and List C.

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13. **Q. Why is a Canadian driver's license acceptable as a List B document and not a Mexican driver's license?**
- A. The United States-Canada Free-Trade Agreement and other reciprocal agreements between these 2 countries form the basis for accepting a Canadian driver's license as a List B identity document. No such reciprocal agreements currently exist between the United States and Mexico that would allow or permit the use of a Mexican driver's license as a List B identity document.
14. **Q. May I accept an expired document?**
- A. You may accept an expired United States Passport. You may also accept an expired document from List B to establish identity. However, the document must reasonably appear on its face to be genuine and to relate to the person presenting it. You cannot accept any other expired documents.
15. **Q. How can I tell if an INS-issued document has expired?**
- A. Some INS-issued documents, such as previous versions of the Alien Registration Receipt Card (I-151 and I-551), do not have expiration dates and are valid indefinitely. However, the 1989 revised version of the Alien Registration Receipt Card (I-551), which is rose-colored with computer readable data on the back, features a 2-year or 10-year expiration date. Other INS issued documents, such as the Temporary Resident Card (I-688) and the Employment Authorization Card (I-688A or I-688B) also have expiration dates. These dates can be found either on the face of the document or on a sticker attached to the back of the document.
16. **Q. Some people are presenting me with Social Security Cards that have been laminated. May I accept such cards as evidence of employment eligibility?**
- A. You may not accept a laminated Social Security Card as evidence of employment eligibility if the card states on the back "not valid if laminated." Lamination of such cards renders them invalid. Metal or plastic reproductions of Social Security Cards are not acceptable.
17. **Q. Some people are presenting me with printouts from the Social Security Administration with their name, Social Security Number, date of birth, and their parents' names. May I accept such printouts in place of a Social Security Card as evidence of employment eligibility?**
- A. No. Only a person's official Social Security Card is acceptable.
18. **Q. What should I do if persons present Social Security Cards marked "NOT VALID FOR EMPLOYMENT," but state they are now authorized to work?**
- A. You should ask them to provide another document to establish their employment eligibility, since such Social Security Cards do not establish this.
19. **Q. What should I do if one of my employees tells me that his or her Social Security Number is invalid?**
- A. You should tell the employee to get a proper Social Security Number by completing a Form SS-5. This form is available from the Social Security Administration. You do not need to amend your employment tax returns. However, when the employee gives you the new number, you should file a Form W-2C with the Social Security Administration for the years in which you reported income and withholding under the incorrect number. You will not be penalized or fined for the years during which you reported employees under incorrect numbers.
- You should also be aware that any Social Security Number starting with a "9" is not a valid Social Security Number. Employees who are using such numbers should be instructed to get a proper Social Security Number using a Form SS-5.
20. **Q. May I accept a photocopy of a document presented by an employee?**
- A. No. Employees must present original documents. The **only** exception is that an employee may present a **certified** copy of a birth certificate.



- 21. Q. I noticed on the Form I-9 that under List A there are 2 spaces for document numbers and expiration dates. Does this mean I have to see 2 List A documents?**
- A. No. One of the documents found in List A is an unexpired foreign passport with an attached INS Form I-94. The Form I-9 provides space for you to record the document number and expiration date for both the passport and the INS Form I-94.
- 22. Q. When I review an employee's identity and employment eligibility documents, should I make copies of them?**
- A. The law does not require you to photocopy documents. However, if you wish to make photocopies, you should do so for **all** employees, and you should retain each photocopy with the I-9. Photocopies must not be used for any other purpose. Photocopying documents does not relieve you of your obligation to fully complete Section 2 of the I-9 nor is it an acceptable substitute for proper completion of the I-9 in general.
- NOTE 1:** *Although a Certificate of Naturalization (INS Forms N-550 and N-570) provides across the face of the document that it may not be copied, such certificates **may be copied** in this limited situation.*
- NOTE 2:** *Copies of documents retained by Federal government employers must be kept separately from an employee's official personnel folder.*
- 24. Q. What should I do if I rehire a person who previously filled out an I-9?**
- A. You do not need to complete a new I-9 if you rehire the person within 3 years of the date that the I-9 was originally completed, and the employee is still eligible to work. You should review the previously completed I-9, and if the employee's work authorization has not expired, note the date of rehire in the Updating and Reverification Section on the I-9 (Section 3), and sign in the appropriate space. If the employee's work authorization has expired, you also need to examine a document that reflects that the employee is authorized to work in the U.S., and record the document title, number, and expiration date (if any) in Section 3.
- 25. Q. What should I do if I need to update or reverify an I-9 for an employee who filled out an earlier version of the form?**
- A. You may line through any outdated information and initial and date any updated information. You may also choose, instead, to complete a new I-9.
- 26. Q. Do I need to complete a new I-9 when one of my employees is promoted within my company or transfers to another company office at a different location?**
- A. No. You do not need to complete a new I-9 for such promoted or transferred employees.

### **Questions About Completing and Retaining the Form I-9**

- 23. Q. When do I fill out the I-9 if I hire someone for less than 3 business days?**
- A. You must complete **both** Sections 1 and 2 of the I-9 at the time of the hire. This means the I-9 must be fully completed when the person starts to work.

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- 27. Q. What do I do when an employee's work authorization expires?**
- A. You will need to reverify on the I-9 in order to continue to employ the person. Reverification must occur not later than the date that work authorization expires. The employee must present a document that shows either an extension of the employee's initial employment authorization or new work authorization. You must review this document and, if it reasonably appears on its face to be genuine and to relate to the person presenting it, record the document title, number, and expiration date (if any), in the Updating and Reverification Section on the I-9 (Section 3), and sign in the appropriate space. You may want to establish a calendar call-up system for employees whose employment authorization will expire in the future.
- NOTE:** You cannot refuse to accept a document because it has a future expiration date. You **must** accept any document (from List A or List C) listed on the I-9 and in Part 8 of this Handbook which on its face reasonably appears to be genuine and to relate to the person presenting it. To do otherwise could be an unfair immigration-related employment practice.*
- 28. Q. Can I avoid reverifying the I-9s by not hiring persons whose employment authorization has an expiration date?**
- A. You **cannot** refuse to hire persons solely because their employment authorization is temporary. The existence of a future expiration date does not preclude continuous employment authorization for an employee and does not mean that subsequent employment authorization will not be granted. In addition, consideration of a future employment authorization expiration date in determining whether an alien is qualified for a particular job could be an unfair immigration-related employment practice.
- 29. Q. As an employer, do I have to fill out all the I-9s myself?**
- A. No. You may designate someone to fill out the I-9s for you, such as a personnel officer, foreman, agent, or anyone else acting in your interest. However, you are still liable for any violations of the employer sanctions laws.
- 30. Q. Can I contract with someone to complete the I-9s for my business?**
- A. Yes. You can contract with another person or business to verify employees' identity and work eligibility and to complete the I-9s for you. However, you are still responsible for the contractor's actions and are liable for any violations of the employer sanctions laws.
- 31. Q. As an employer, can I negotiate my responsibility to complete the I-9s in a collective bargaining agreement with a union?**
- A. Yes. However, you are still liable for any violations of the employer sanctions laws. If the agreement is for a multi-employer bargaining unit, certain rules apply. The association must track the employee's hire and termination dates each time the employee is hired or terminated by an employer in the multi-employer association.
- 32. Q. What are the requirements for retaining the I-9?**
- A. If you are an employer, you must retain the I-9 for 3 years after the date employment begins or 1 year after the date the person's employment is terminated, **whichever is later**. If you are an agricultural association, agricultural employer, or farm labor contractor, you must retain the I-9 for 3 years after the date employment begins for persons you recruit or refer for a fee.

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33. **Q. Will I get any advance notice if an INS, DOL, or OSC officer wishes to inspect my I-9s?**
- A. Yes. The officer will give you at least 3 days (72 hours) advance notice before the inspection. If it is more convenient for you, you may waive the 3-day notice. You may also request an extension of time in which to produce the I-9s. The INS, DOL, or OSC officer will not need to show you a subpoena or a warrant at the time of the inspection.
- NOTE:** *This does not preclude the INS, the DOL, or the OSC from obtaining warrants based on probable cause for entry onto the premises of suspected violators without advance notice.*
- Failure to provide the I-9s for inspection is a violation of the employer sanctions laws and could result in the imposition of civil money penalties.
34. **Q. Do I have to complete an I-9 for Canadians who entered the United States under the Free Trade Agreement?**
- A. Yes. You must complete an I-9 for all employees. Canadians must show identity and employment eligibility documents just like all other employees.
35. **Q. If I acquire a business, can I rely on the I-9s completed by the previous owner/employer?**
- A. Yes. However, you also accept full responsibility and liability for all I-9s completed by the previous employer relating to individuals who are continuing in their employment.
36. **Q. If I am a recruiter or referrer for a fee, do I have to fill out I-9s on persons whom I recruit or refer?**
- A. No, with three exceptions. Agricultural associations, agricultural employers, and farm labor contractors are still required to complete I-9s on all individuals who are recruited or referred for a fee. However, **all** recruiters and referrers for a fee must still complete I-9s for **their own employees** hired after November 6, 1986. Also, **all** recruiters and referrers for a fee are still liable for knowingly recruiting or referring for a fee aliens not authorized to work in the United States.
37. **Q. Can I complete Section 1 of the I-9 for an employee?**
- A. Yes. You may help an employee who needs assistance in completing Section 1 of the I-9. However, you must also complete the "Prepare/Translator Certification" block. The employee must still sign the certification block in Section 1.
38. **Q. If I am a business entity (corporation, partnership, etc.), do I have to fill out I-9s on my employees?**
- A. Yes, you must complete I-9s for all of your employees, including yourself.

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**39. Q. I have heard that some state employment agencies can certify that people they refer are eligible to work. Is that true?**

- A. Yes. State employment agencies may elect to provide persons they refer with a certification of employment eligibility. If one of these agencies refers potential employees to you with a job order or other appropriate referral form, and the agency sends you a certification within 21 business days of the referral, you do not have to check documents or complete an I-9 if you hire that person. However, you must review the certification to ensure that it relates to the person hired and observe the person sign the certification. You must also retain the certification as you would an I-9 and make it available for inspection, if requested. You should check with your state employment agency to see if it provides this service and become familiar with its certification document.

#### **Questions About Avoiding Discrimination**

**40. Q. How can I avoid discriminating against certain employees while still complying with this law?**

- A. You can avoid discriminating against certain employees and still comply with the law by applying the employment eligibility verification procedures of this law to all newly hired employees and by hiring without respect to the national origin or citizenship status of those persons authorized to work in the United States. To request to see identity and employment eligibility documents only from persons of a particular origin, or from persons who appear or sound foreign, is a violation of the employer sanctions laws and may also be a violation of Title VII of the Civil Rights Act of 1964. You should not discharge present employees, refuse to hire new employees, or otherwise discriminate on the basis of foreign appearance, accent, language, or name.

**41. Q. I know that the Act prohibits discrimination on the basis of citizenship status against "protected individuals." Who are protected individuals?**

- A. Protected individuals include citizens or nationals of the United States, lawful permanent residents, temporary residents, and persons granted refugee or asylee status. The term does not include aliens in one of those classes who fail to make a timely application for naturalization after they become eligible.

**42. Q. Can I be charged with discrimination if I contact the INS about a document presented to me that does not reasonably appear to be genuine and relate to the person presenting it?**

- A. No. The anti-discrimination provisions of the Act only apply to the hiring and discharging of individuals. While you are not legally required to inform the INS of such situations, you may do so if you choose to.

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**Questions About Employees Hired Before November 6, 1986**

43. **Q. Does this law apply to my employees if I hired them before November 7, 1986?**

A. No. You are not required to complete I-9s for employees hired before November 7, 1986. However, if you choose to complete I-9s for these employees, you should do so for all your current employees hired before November 7, 1986.

***NOTE:** This "grandfather" status does not apply to seasonal employees, or to employees who change employers within a multi-employer association.*

44. **Q. What if an employee was hired before November 7, 1986, but has taken an approved leave of absence?**

A. You do not need to complete an I-9 for that employee if the employee is continuing in his or her employment and has a reasonable expectation of employment at all times. However, if that employee has quit or been terminated, or is an alien who has been removed from the United States, you will need to complete an I-9 for that employee.

45. **Q. Will I be subject to employer sanctions penalties if an employee I hired before November 7, 1986, is an illegal alien?**

A. No. You will not be subject to employer sanctions penalties for retaining an illegal alien in your workforce if the alien was hired before November 7, 1986. However, the fact that an illegal alien was on your payroll before November 7, 1986, does **not** give him or her any right to remain in the United States. Unless the alien obtains permission from the INS to remain in the United States, he or she is subject to apprehension and removal.

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**Questions About Federal Income Tax Obligations**

46. **Q. What advice should I give to my employees applying to legalize their status concerning their Federal income tax obligations?**

A. You can advise employees that when they apply to INS for permanent resident status, they will be given an IRS publication explaining requirements for filing Form W-4 or W-4A to insure correct withholding of tax records (if an invalid social security number was used) and other guidelines relating to tax benefits.

47. **Q. What advice should I give to newly-hired employees who ask about their Federal income tax obligations?**

A. First, you can tell them it is important to have a valid social security number and to properly complete a W-4 or W-4A so that the employer can withhold the proper amount for income tax. Second, you can encourage employees to apply for social security numbers for their dependent children who will be five years old or older by the end of the year. Since 1987, such numbers have been required to be provided for dependents claimed on tax returns.

## Part Eight

### Acceptable Documents for Verifying Employment Eligibility

The following documents have been designated for determining employment eligibility by the Act. A person must present a document or documents that establish identity and employment eligibility. A comprehensive list of acceptable documents can be found on the next page of this Handbook and on the back of the Form I-9. Samples of many of the acceptable documents appear on the following pages.

To establish **both identity and employment eligibility**, a person can present a passport, an Alien Registration Receipt Card, or one of the other documents from List A.

If a person does not present a document from List A, he or she must present one document from List B which establishes identity and one document from List C which establishes employment eligibility.

To establish **identity only**, a person must present a document from List B, such as a state-issued driver's license, a state-issued identification card, or one of the other documents listed.

To establish **employment eligibility only**, a person must present a document from List C, such as a Social Security Card, a United States birth certificate, or one of the other documents listed.

If a person is unable to present the required document(s) within 3 business days of the date employment begins, he or she must present (within 3 business days) a receipt showing that he or she has applied for the document. The person then must present the actual document within 90 days of the date employment begins. The person must have indicated on or before the time employment began, by having checked an appropriate box in Section 1, that he or she is already eligible to be employed in the United States.

### LIST A Documents That Establish Both Identity and Employment Eligibility

- \* United States Passport (unexpired or expired)
  - \* Certificate of United States Citizenship (INS Form N-560 or N-561)
  - \* Certificate of Naturalization (INS Form N-550 or N-570)
  - \* Unexpired foreign passport which:
    - \* contains an unexpired stamp which reads "Processed for I-551. Temporary Evidence of Lawful Admission for permanent residence. Valid until \_\_\_\_\_ Employment authorized;" or
    - \* has attached to it a Form I-94 bearing the same name as the passport and containing an employment authorization stamp, so long as the period of endorsement has not yet expired, and the proposed employment is not in conflict with any restrictions or limitations identified on the Form I-94.
- NOTE:** For more detailed information concerning the Form I-94, see page 23 of this Handbook.
- \* Alien Registration Receipt Card (INS Form I-151 or I-551) provided that it contains a photograph of the bearer
  - \* Unexpired Temporary Resident Card (INS Form I-688)
  - \* Unexpired Employment Authorization Card (INS Form I-688A)
  - \* Unexpired reentry permit (INS Form I-327)
  - \* Unexpired Refugee Travel document (INS Form I-571)
  - \* Unexpired Employment Authorization Document issued by the INS which contains a photograph (INS Form I-688B)

**LIST B****Documents That Establish Identity**

For individuals 18 years of age or older:

- \* Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
- \* ID card issued by federal, state, or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address (including U.S. Citizen ID Card [INS Form I-1971 and ID Card for use of Resident Citizen in the U.S. [INS Form I-1791)
- \* School identification card with a photograph
- \* Voter's registration card
- \* United States military card or draft record
- \* Military dependent's identification card
- \* United States Coast Guard Merchant Mariner Card
- \* Native American tribal document
- \* Driver's license issued by a Canadian government authority

For individuals under the age of 18 who are unable to present one of the documents listed above:

- \* School record or report card
- \* Clinic, doctor, or hospital record
- \* Day-care or nursery school record

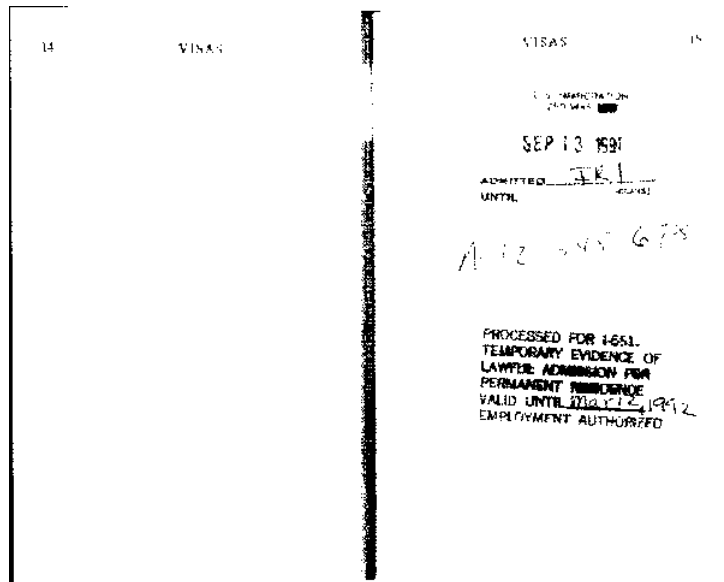
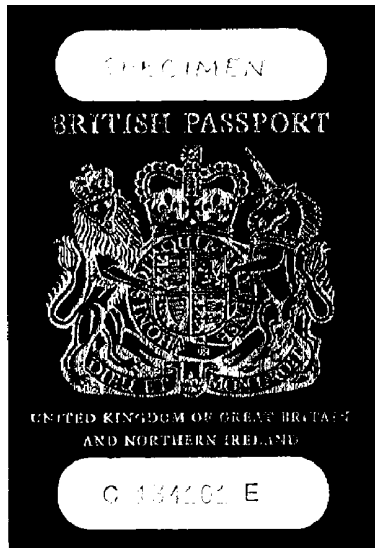
**LIST C****Documents That Establish Employment Eligibility**

- \* U.S. Social Security Number Card other than one which has printed on its face "NOT VALID FOR EMPLOYMENT"  
  
***NOTE:** This must be a card issued by the Social Security Administration, a facsimile (such as a metal or plastic reproduction) is not an acceptable document.*
- \* Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
- \* Original or certified copy of a birth certificate issued by a state, county, municipal authority, or outlying possession of the United States bearing an official seal
- \* Native American tribal document
- \* U.S. Citizen ID Card (INS Form I-197)
- \* ID Card for Use of Resident Citizen in the U.S. (INS Form I-179)
- \* Unexpired employment authorization document issued by the INS





Unexpired Foreign Passport with I-551 Stamp



I-94 Arrival/Departure Record

Arrival-departure record issued by INS to nonimmigrant aliens. An individual in possession of the departure portion of this document may only be employed if the document bears an "employment authorization" stamp or employment incident to the nonimmigrant classification is authorized with a specific employer (i.e. A-1, A-2, A-3, C-2, C-3, E-1, E-2, G-1, G-2, G-3, G-4, G-5, H-1A, H-1B, H-2A, H-2B, H-3, I, L-1, O-1, O-2, P-1, P-2, P-3, Q, NATO 1-7 and TC). The expiration date is noted on the Form I-94.

Departure Number  
**742832036 01**

U.S. IMMIGRATION  
250 WAS

Immigration and  
Naturalization Service  
I-94  
Departure Record

**SAMPLE**

**SEP 13 1991**

ADMITTED L-1  
UNTIL \_\_\_\_\_ (CLASS)

*July 10, 1993*

14. Family Name  
**DOE**

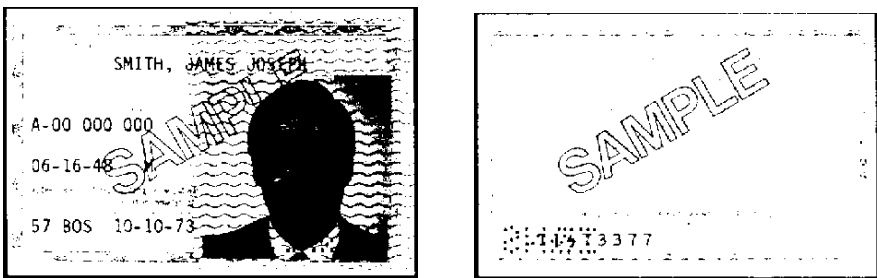
15. First (Given) Name  
**JOHN**

16. Birth Date (Day, Month, Year)  
**16.04.62**

17. Country of Citizenship  
**U.K.**

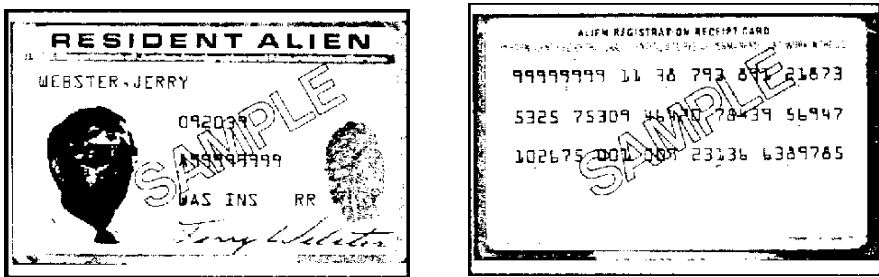
**Allen Registration Receipt Card I-151**

Issued by INS prior to June 1978, to lawful permanent resident aliens, There are numerous versions of this card because it was periodically revised. Although this card is no longer issued, it is valid indefinitely. This card is also commonly referred to as a "green card" although most versions were blue.



**Allen Registration Receipt Card (Resident Alien Card) I-551**

Issued by INS after March 1977, to lawful permanent resident aliens. Although this card is no longer issued, it is valid indefinitely, This card is commonly referred to as a "green card" and is the replacement for the Form I-151, This version is white with a blue logo.



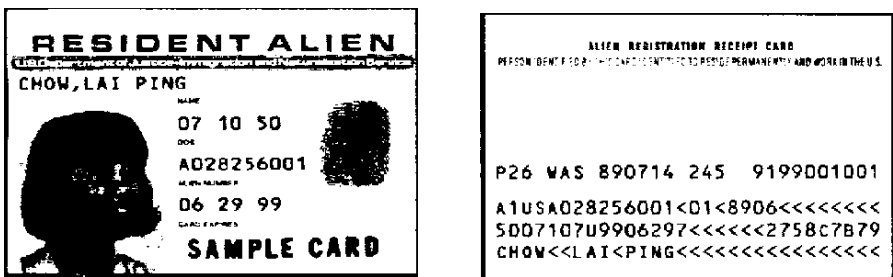
**Allen Registration Receipt Card (Conditional Resident Alien Card) I-551**

Issued by INS after January 1987, to conditional permanent resident aliens such as alien spouses of United States citizens or lawful permanent resident aliens. It is similar to the I-551 issued to permanent resident aliens. Although this card is no longer issued, it is valid for 2 years from the date of admission or adjustment. The expiration date is stated on the back of the card. This version is white with a blue logo.



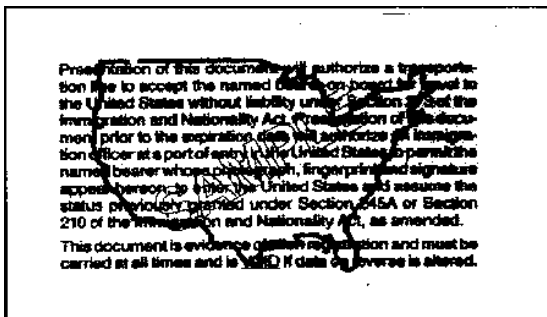
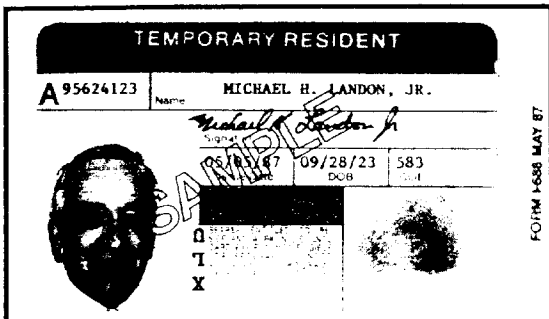
**Allen Registration Receipt Card (Resident Alien Card) I-551**

Currently issued by INS since 1989 to both conditional and lawful permanent resident aliens. Although it is similar to the previously issued I-551s, this card is valid only for a limited period of time -- 2 years from the date of admission or adjustment for conditional permanent resident aliens and 10 years from issuance for lawful permanent resident aliens. The expiration date is stated on the front of the card. This version is rose-colored with a blue logo.



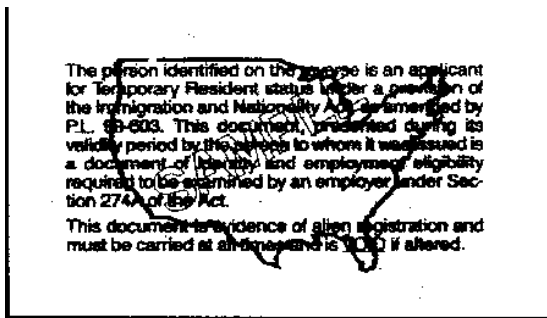
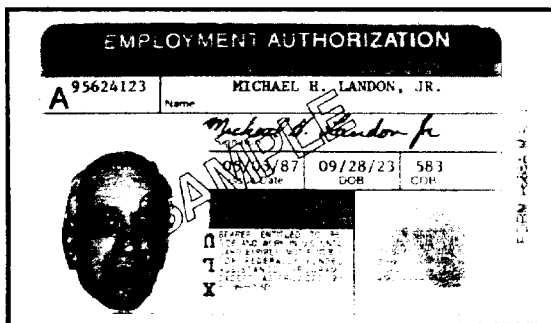
### Temporary Resident Card I-688

Issued by INS to aliens granted temporary resident status under the Legalization or Special Agricultural Worker program. It is valid until the expiration date stated on the face of the card or on the sticker(s) placed on the back of the card.



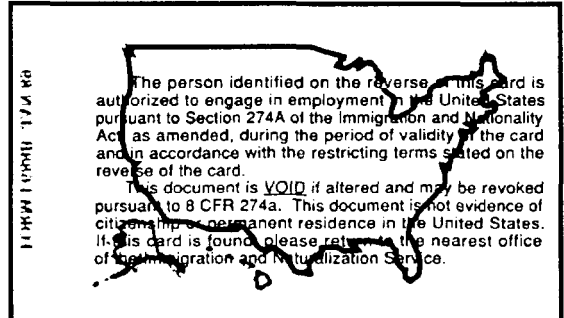
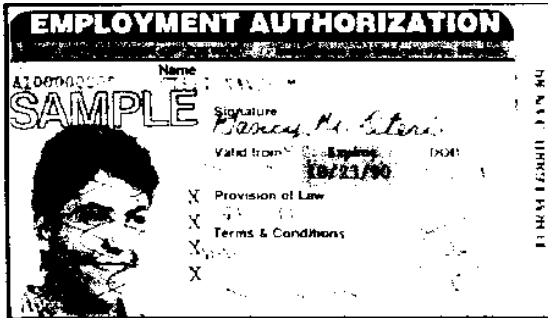
### Employment Authorization Card I-688A

Issued by INS to applicants for temporary resident status after their interview for Legalization or Special Agricultural Worker status. It is valid until the expiration date stated on the face of the card or on the sticker(s) placed on the back of the card.



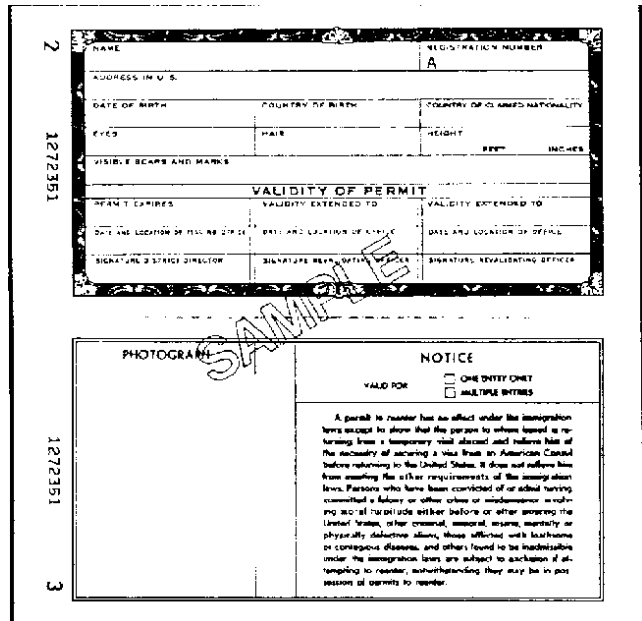
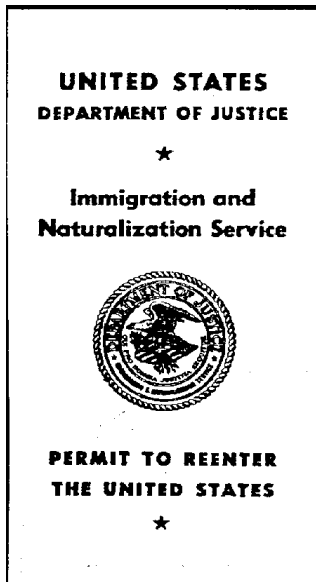
**Employment Authorization Card I-688B**

Issued by INS to aliens granted temporary employment authorization in the U.S. The expiration date is noted on the face of the card.



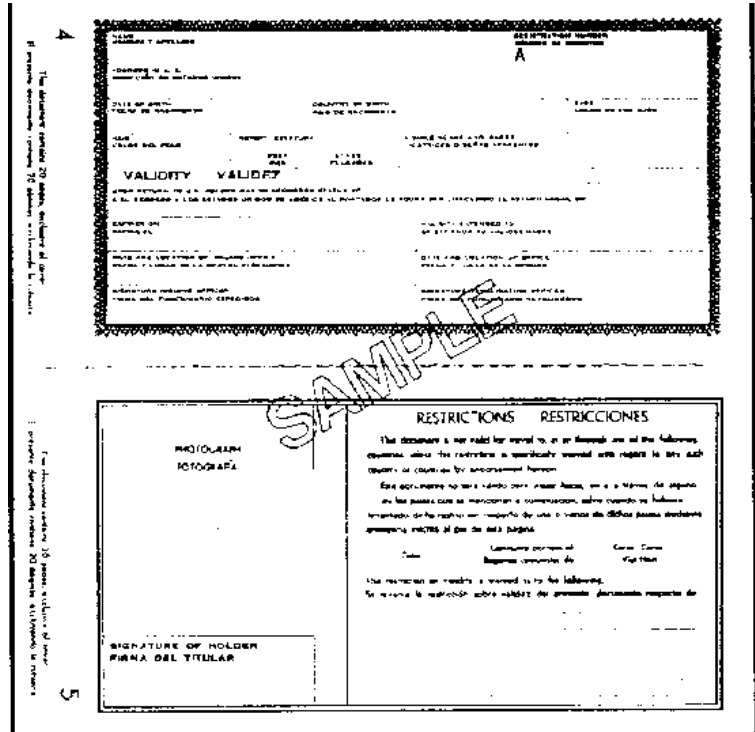
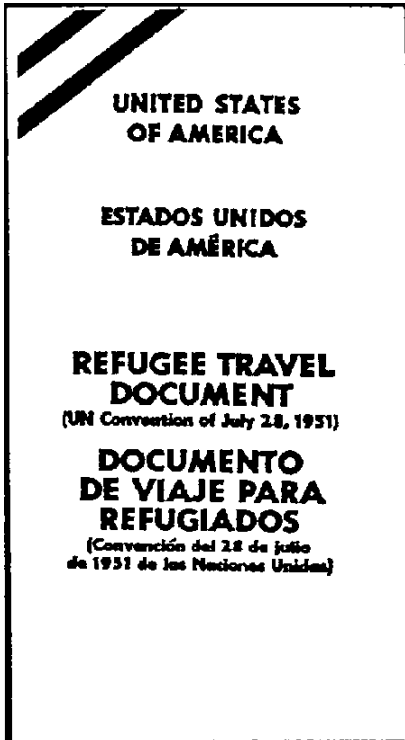
**Unexpired Re-Entry Permit I-327**

Issued by INS to lawful permanent resident aliens before they leave the United States for a 1-2 year period.



### Unexpired Refugee Travel Document I-571

Issued by INS to aliens who have been granted refugee status. The expiration date is stated on page four (4).



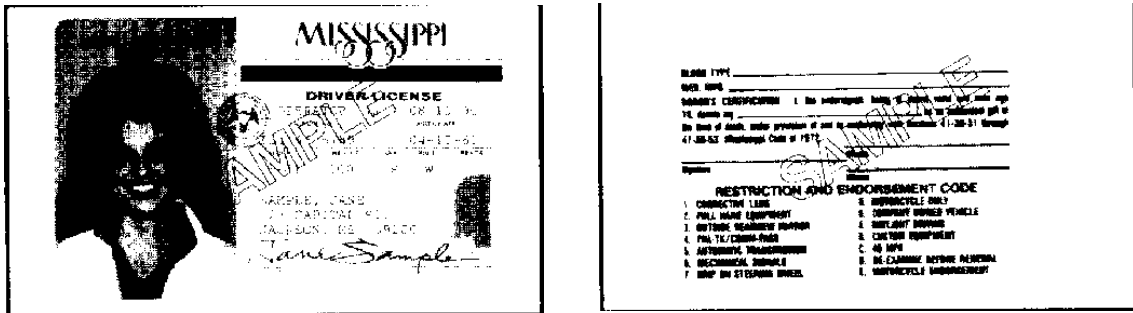
## Document List B

### Documents That Establish Identity Only

The following illustrations in this handbook do not necessarily reflect the actual size of the documents.

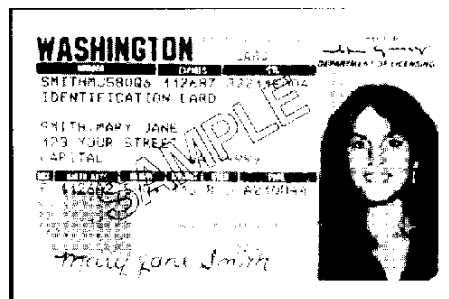
#### Sample Driver's License

A driver's license issued by any state or outlying possession of the United States (including the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa) or by a Canadian government authority is acceptable if it contains a photograph or other identifying information such as name, date of birth, sex, height, color of eyes, and address.



#### Sample State Identification Card

An identification card issued by any state (including the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands) or by a local government is acceptable if it contains a photograph or other identifying information such as name, date of birth, sex, height, color of eyes, and address.



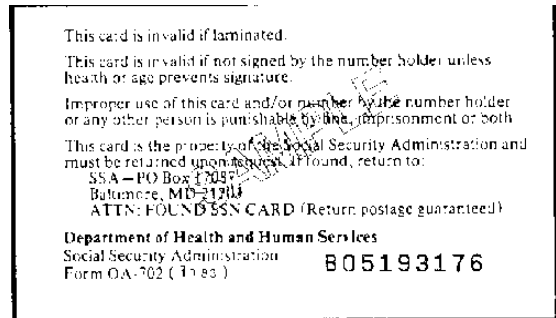
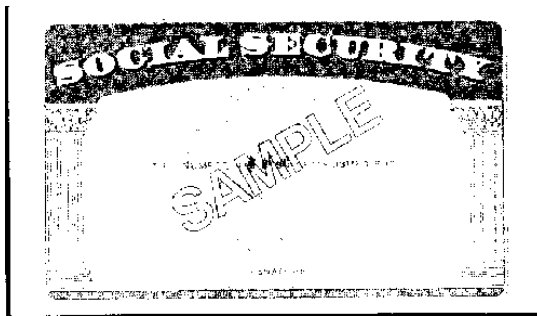
See List C for ID cards issued by INS.

## Document List C

### Documents That Establish Employment Eligibility Only

The following illustrations in this handbook do not necessarily reflect the actual size of the documents.

**Social Security Card** (other than one stating "NOT VALID FOR EMPLOYMENT" metal or plastic reproductions, or certain laminated cards.) There are many versions of this card.



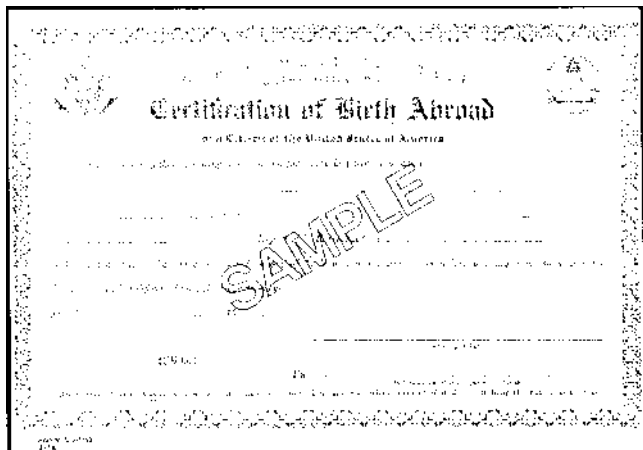
### Certifications of Birth Issued by the Department of State

**FS-545**

Issued by U.S. embassies and consulates overseas to United States citizens born abroad.

**DS-1350**

Issued by the U.S. Department of State to United States citizens born abroad.



Sample Birth Certificates

BIRTH CARD CERTIFICATION  
 KENTUCKY DEPARTMENT FOR HEALTH SERVICES  
 REGISTRAR OF VITAL STATISTICS

BIRTH NUMBER 116-60-29839-26

NAME OMAR L. GREENMAN  
 BIRTHDATE 6-11-1926 SEX MALE  
 BIRTHPLACE McCracken County Kentucky  
 RECORD FILED 6-11-1926 DATE ISSUED 10-11-83  
 CARD NUMBER 0000

SAMPLE *Omar L. Greenman*  
 OMAR L. GREENMAN STATE REGISTRAR

THIS CERTIFICATION IS A TRUE ABSTRACT OF THE ORIGINAL BIRTH RECORD OF THE PERSON NAMED ON THE REVERSE SIDE, WHICH RECORD IS ON FILE WITH AND IN OFFICIAL CUSTODY OF THE STATE REGISTRAR OF VITAL STATISTICS AT FRANKFORT, KENTUCKY.

ISSUED UNDER AUTHORITY OF CHAPTER 213  
 KENTUCKY REVISED STATUTES.

STATE OF MICHIGAN  
 DEPARTMENT OF PUBLIC HEALTH

CERTIFICATE OF LIVE BIRTH

4550138

CHILD NAME JOHN LEE DON  
 SEX MALE MARRIAGE SINGLE DATE OF BIRTH 4-3-1901  
 PLACE OF BIRTH OTCR DRIVE HOSPITAL LINCOLN PARK MICHIGAN

CERTIFICATION  
 DR. WALTER SMITH  
 DATE 4-3-1901  
 REGISTERED AT THE PLACE NAMED CHILD WAS BORN AT THE PLACE AND TIME AND ON THE DATE STATED ABOVE

MOTHER MARY LOU JONES  
 SOCIAL SECURITY NUMBER 111-111-3647  
 AGE AT TIME OF BIRTH 22  
 STATE OF BIRTH MICHIGAN

FATHER JOHN DON  
 SOCIAL SECURITY NUMBER 222-222-4786  
 AGE AT TIME OF BIRTH 23  
 STATE OF BIRTH MICHIGAN

DATE OF BIRTH 4-3-1901

United States Citizen Identification Card I-197

Issued by INS to United States citizens. Although INS no longer issues this card, it is valid indefinitely.

THIS IS TO CERTIFY THAT:

DATE OF BIRTH \_\_\_\_\_

PLACE OF BIRTH \_\_\_\_\_

HEIGHT \_\_\_\_\_ HAIR \_\_\_\_\_ EYES \_\_\_\_\_

VISIBLE MARKS \_\_\_\_\_

HAS CLAIMED UNDER OATH TO BE A CITIZEN OF THE U.S. THROUGH \_\_\_\_\_

SAMPLE

UNITED STATES DEPARTMENT OF JUSTICE  
 IMMIGRATION AND NATURALIZATION SERVICE

U.S. CITIZEN IDENTIFICATION CARD  
 No. 245609

THIS CARD IS ISSUED SOLELY FOR STATE IDENTIFICATION OF THE HOLDER FOR IMMIGRATION OFFICERS IN THE UNITED STATES AT A LAND BORDER POINT OF ENTRY. IT IS NOT VALID FOR UNITED STATES PASSPORT.

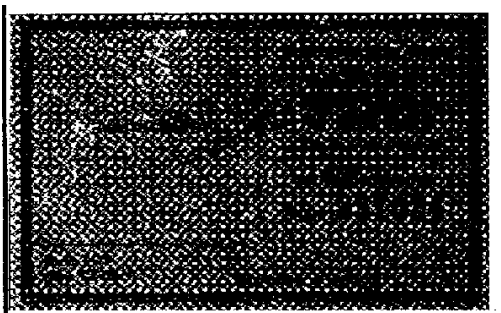
DATE \_\_\_\_\_ PLACE \_\_\_\_\_

SIGNATURE OF ISSUING OFFICER \_\_\_\_\_ TITLE \_\_\_\_\_

SAMPLE

Identification Card for Use of Resident Citizen in the United States I-179

Issued by INS to United States citizens who are residents of the United States. Although INS no longer issues this card, it is valid indefinitely.



UNITED STATES DEPARTMENT OF JUSTICE  
 IMMIGRATION AND NATURALIZATION SERVICE

IDENTIFICATION CARD FOR USE OF RESIDENT CITIZEN IN THE UNITED STATES I-179

THIS CARD IS ISSUED SOLELY FOR STATE IDENTIFICATION OF THE HOLDER FOR IMMIGRATION OFFICERS IN THE UNITED STATES AT A LAND BORDER POINT OF ENTRY. IT IS NOT VALID FOR UNITED STATES PASSPORT.

DATE \_\_\_\_\_ PLACE \_\_\_\_\_

SIGNATURE OF ISSUING OFFICER \_\_\_\_\_ TITLE \_\_\_\_\_

SAMPLE





IAP-66 Accompanied by a Form I-94

Nonimmigrant exchange visitors (J-1) must have an I-94 accompanied by an unexpired IAP-66, specifying the sponsor and issued by the United States Information Agency (USIA). (J-1 students working outside the program indicated on the IAP-66 also need a letter from their responsible school officer.)

Departure Number  
742832045 01

U.S. IMMIGRATION  
250 WAS 200

Immigration and  
Naturalization Service  
I-94  
Departure Record

SEP 13 1991  
ADMITTED J-1  
UNTIL OCT 07, 1995 (CLASS)

Family Name of  
SMITH  
First (Usual) Name  
JANE  
Country of Citizenship  
UK

Date of Birth (Day, Mo, Yr)  
10.01.45

PLEASE DO NOT STAPLE THIS FORM

ASSURE THAT IMPRESSIONS ON ALL COPIES ARE CLEAR

APPROVED OMB 3116-0008 EXP. 10/21/92  
\*Eliminated Bulletin Hours, 18 mins. See page 4.

**United States Information Agency**  
EXCHANGE VISITOR FACILITATIVE STAFF (C-V)  
CERTIFICATE OF ELIGIBILITY FOR EXCHANGE VISITOR (J-1) STATUS

1. NAME: SMITH, JANE  
2. DATE OF BIRTH: 10/01/45  
3. SEX: F  
4. HEIGHT: 5-00  
5. HAIR: BRN  
6. EYES: BRN  
7. COMPLEXION: Fair  
8. OCCUPATION: Student  
9. EDUCATION: High School  
10. RELIGION: Protestant  
11. MARITAL STATUS: Single  
12. U.S. ADDRESS: 123 Main St, New York, NY 10001

2. Will be sponsored by: [Blank]

3. This form covers the period from 09/13/91 to 10/07/95. Students are permitted to travel abroad & maintain status (e.g., obtain a new visa) under extension of the program as indicated by the dates on this form. If the form is for travel only or replaces a null form, the separation date on the exchange visitor's file is \_\_\_\_\_.

4. The category of this visitor is: (1) Student; (2) Trainee; (3) Teacher; (4) Professor; (5) Research Scholar or Scientist; (6) International Visitor; (7) Medical Trainee; (8) Has been employee of the U.S.A.; (9) Special Agent of study, research, training, or professional activity; (10) Verbally described as follows: (Specify Field): \_\_\_\_\_

5. During the period covered by this form, it is requested that the following financial support in U.S. dollars be delivered to this exchange visitor by:  
 a. The Program Sponsor: \$ \_\_\_\_\_  
 b. The Exchange Visitor's Government: \$ \_\_\_\_\_  
 c. The Exchange Visitor's Country: \$ \_\_\_\_\_  
 d. Other organizations providing support: \$ \_\_\_\_\_  
 e. Personal funds: \$ \_\_\_\_\_

6. STATE USE

7. Name of Official: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

8. STATEMENT OF RESPONSIBLE OFFICER FOR RELEASED SPONSOR (FOR TRANSFER OF PROGRAM)  
Date: \_\_\_\_\_ Transfer of this exchange visitor from program No. \_\_\_\_\_, sponsored by \_\_\_\_\_ to the program specified in item 2) is necessary or highly desirable and is in conformity with the objectives of the Mutual Educational and Cultural Exchange Act of 1946.

IAP-66 (12-90) Copy 1 - For Immigration and Naturalization Service PAGE 1

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## REMEMBER:

- \* Hiring employees without complying with the employment eligibility verification requirements is a violation of the employer sanctions laws.
- \* This law requires employees hired after NOVEMBER 6, 1986 to present documentation that establishes identity and employment eligibility, and employers to record this information on Forms I-9.
- \* Employers may not discriminate against employees on the basis of national origin or citizenship status.

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**How to Obtain More Information:**

If you have questions after reviewing this handbook, you may obtain information from one of the following local INS offices. Direct your letter to the attention of the *Employer and Labor Relations Officer*.

**ALABAMA**

77 Forsyth St. S.W., Rm. G-85  
Atlanta, GA 30303

**ALASKA**

620 East 10th Ave. Suite 102  
Anchorage, AK 99501

**ARIZONA**

2035 N- Central Ave.  
Phoenix, AZ 85004

**ARKANSAS**

701 Loyola Ave., Rm. T-8005  
New Orleans, LA 70113

**CALIFORNIA**

300 N. Los Angeles St.  
Los Angeles, CA 90012

880 Front St.  
San Diego, CA 92188

630 Sansome St.  
San Francisco, CA 94111-2280

**COLORADO**

4730 Paris St. Albrook Center  
Denver, CO 86239-2804

**CONNECTICUT**

JFK Federal Building  
Government Center  
Boston, MA 02203

**DELAWARE**

1600 Callowhill St.  
Philadelphia, PA 19130

**DISTRICT OF COLUMBIA**

4420 N. Fairfax Dr.  
Arlington, VA 22203

**FLORIDA**

7880 Biscayne Blvd.  
Miami, FL 33138

**GEORGIA**

77 Forsyth St. S.W., Rm. G-85  
Atlanta, GA 30303

**GUAM**

595 Ala Moana Blvd.  
Honolulu, HI 96813

**HAWAII**

595 Ala Moana Blvd.  
Honolulu, HI 96813

**IDAHO**

900 N. Montana Ave.  
Helena, MT 59601

**ILLINOIS**

10 W. Jackson Blvd., Rm. 533  
Chicago, IL 60604

**INDIANA**

10 W. Jackson Blvd., Rm. 533  
Chicago, IL 60604

**IOWA**

3736 S. 132nd St.  
Omaha, NE 68144

**KANSAS**

9747 N. Conant Ave.  
Kansas City, MO 64153

**KENTUCKY**

701 Loyola Ave., Rm. T-8005  
New Orleans, LA 70113

**LOUISIANA**

701 Loyola Ave., Rm. T-8005  
New Orleans, LA 70113

**MAINE**

739 Warren Ave.  
Portland, ME 04103

**MARYLAND**

530 Caton Center Dr., Bldg. D, Suite M  
Baltimore, MD 21227

**MASSACHUSETTS**

JFK Federal Building  
Government Center  
Boston, MA 02203

**MICHIGAN**

Federal Building, 333 Mt. Elliott St.  
Detroit, MI 48207

**MINNESOTA**

2901 Metro Dr. Suite 100  
Bloomington, MN 55425

**MISSISSIPPI**

701 Loyola Ave. Rm. T-8005  
New Orleans, LA 70113

**MISSOURI**

9747 N. Conant Ave.  
Kansas City, MO 64153

**MONTANA**

900 N. Montana Ave.  
Helena, MT 59601

**NEBRASKA**

3736 S. 132nd St.  
Omaha, NE 68114

**NEVADA**

2035 N. Central Ave.  
Phoenix, AZ 85004

**NEW HAMPSHIRE**

JFK Federal Building  
Government Center  
Boston, MA 02203

**NEW JERSEY**

Federal Building, 970 Broad St.  
Newark, NJ 07102

**NEW MEXICO**

343 U.S. Courthouse, P.O. Box 9398  
El Paso, TX 79984

**NEW YORK**

68 Court St.  
Buffalo, NY 14202

26 Federal Plaza  
New York, NY 10278

**NORTH CAROLINA**

77 Forsyth St. S.W., Rm. G-85  
Atlanta, GA 30303

**NORTH DAKOTA**

2901 Metro Dr. Suite 100  
Bloomington, MN 55425

**OHIO**

1240 E. 9th St., Room 1917  
Cleveland, OH 44199

**OKLAHOMA**

4149 Highline Blvd., #300  
Oklahoma City, OK 73108

**OREGON**

511 N.W. Broadway  
Portland, OR 97209

**PENNSYLVANIA**

1600 Callowhill St.  
Philadelphia, PA 19130

**PUERTO RICO**

P.O. Box 365068  
San Juan, PR 00936

**RHODE ISLAND**

JFK Federal Building  
Government Center  
Boston, MA 02203

**SOUTH CAROLINA**

Room 110 Federal Building  
334 Meeting St.  
Charleston, SC 29403

**SOUTH DAKOTA**

2901 Metro Dr Suite 100  
Bloomington, MN 55425

**TENNESSEE**

701 Loyola Ave., Rm. T-8005  
New Orleans, LA 70113

**TEXAS**

8101 N. Stemmons Freeway  
Dallas, TX 75247

P.O. Box 9398  
El Paso, TX 79984

805 No. T St.  
Harlingen, TX 78550

509 N. Belt  
Houston, TX 77060

727 E. Durango Suite A301  
San Antonio, TX 78206

**UTAH**

4730 Paris St. Albrook Center  
Denver, CO 86239-2804

**VERMONT**

739 Warren Ave.  
Portland, ME 04103

**VIRGINIA**

4420 N. Fairfax Dr.  
Arlington, VA 22203

**VIRGIN ISLANDS**

PO Box 610, Charlotte Amilie  
St. Thomas, VI 00801

Po Box 1270, Kingshill, Christiansted  
St. Croix, VI 00850

**WASHINGTON**

815 Airport Way South  
Seattle, WA 98134

**WEST VIRGINIA**

1600 Callowhill St.  
Philadelphia, PA 19130

**WISCONSIN**

10 W. Jackson Blvd., Rm. 533  
Chicago, IL 60604

**WYOMING**

4730 Paris St. Albrook Center  
Denver, CO 86239-2804

If you have questions after reviewing this Handbook, please contact your local INS office at the address found in the back of this Handbook. Direct your letter to the attention of the *Employer Relations Officer*

**DO NOT CONTACT THE INTERNAL REVENUE SERVICE (IRS)**

