

LEGAL STATUS REQUIREMENT

The U.S. Citizenship and Immigration Services (USCIS) Form I-9 lists documents that are acceptable as evidence of identity and/or employment authorization. 73 Fed. Reg. 243 amended 8 CFR 274a.2 to prohibit employers from accepting expired documents to verify employment authorization on Form I-9. This amendment is effective April 3, 2009 and, from that time, districts must use the revised Form I-9, which will be available on the USCIS website. Pursuant to 8 CFR 274a.1, I-9 forms are not needed for persons who are independent contractors or who are employed by a contractor providing contract services.

In order to ensure compliance with the Americans with Disabilities Act, employers may need to provide assistance in completing Form I-9 to individuals who need accommodation, such as those individuals who cannot read, write, or who need the form translated. Pursuant to 8 CFR 274a.2, the preparer or translator must then complete the appropriate portion of the form. In addition, preparers/translators should be careful to give only procedural assistance and offer no counsel with regard to the individual's status. See AR 4032 - Reasonable Accommodation.

Within three business days of hire, the Superintendent or designee shall physically examine the documentation presented by the employee establishing his/her identity and employment authorization as set forth in U.S. Citizenship and Immigration Services Form I-9. The employee may present either an original document which establishes both employment authorization and identity or two separate original documents which establish authorization and identity. Only unexpired documents are acceptable. (8 CFR 274a.2)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

The Superintendent or designee shall: (8 CFR 274a.2)

1. Ensure that the documents presented appear to be genuine and relate to the individual
2. Complete the "Employer Review and Verification" section and sign the attestation with a handwritten signature or electronic signature on Form I-9

Persons employed for three business days or less must provide such documentation on their first day. (8 CFR 274a.2)

If unable to provide satisfactory documentation because the document was lost, stolen, or damaged, the employee shall furnish a receipt indicating that a replacement document has been requested. This receipt must be presented within three business days of the hire, and the replacement document must be provided within 90 days of the hire. (8 CFR 274a.2)

If an individual's employment authorization expires, the Superintendent or designee must reverify Form I-9, by noting the document's identification number and expiration date on the form, no later than the date the work authorization expires. The employee shall present a document that shows either continuing employment authorization or a new grant of work authorization. (8 CFR 274a.2)

LEGAL STATUS REQUIREMENT (continued)

8 USC 1324a authorizes employers to retain an individual's Form I-9 in an electronic format in addition to the other choices of paper, microfilm, or microfiche retention.

The district shall retain an individual's Form I-9 for three years after the date of the hire or for one year after the date his/her employment is terminated, whichever is later. (8 CFR 274a.2)

(cf. 3580 - District Records)

Pursuant to 8 CFR 274a.2, the district may, but is not required to, make a copy of any documents presented by the employee for verification when completing Form I-9. If copies of the documents are made, they must be retained with Form I-9. In addition, districts are not allowed to only copy the documents of individuals of certain national origins or citizenship statuses.

The Superintendent or designee shall copy documents presented by an individual for verification and shall retain them with the individual's Form I-9. The documents shall be kept confidential and used only as needed to help justify the district's past decision to accept the documents as valid.

(cf. 4112.6/4212.6/4312.6 - Personnel Files)