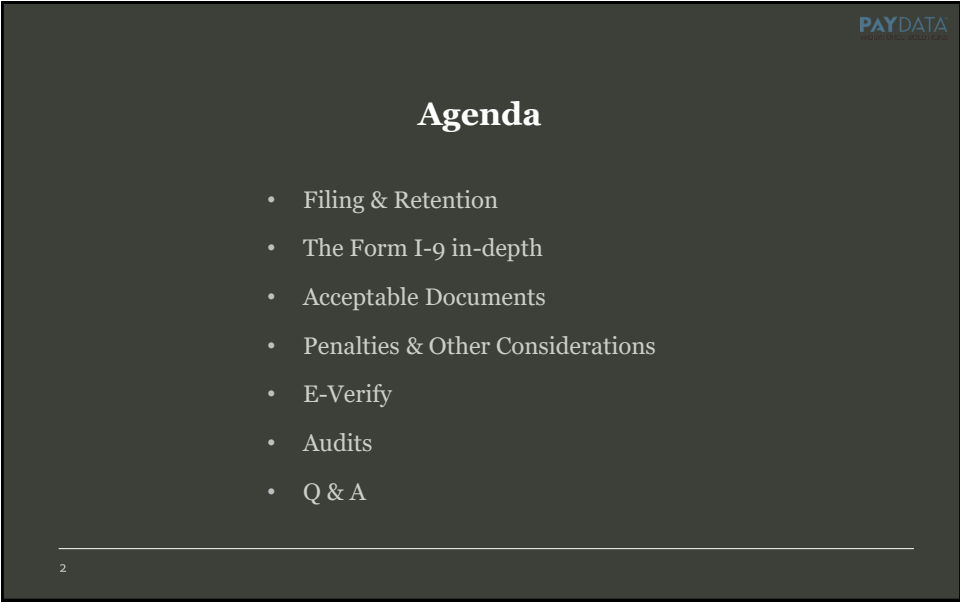


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WORKFORCE SOLUTIONS
Insight

**Form I-9:
Keys to Compliance**

Presented by
Monica Weimar, SPHR, SHRM-CP

1

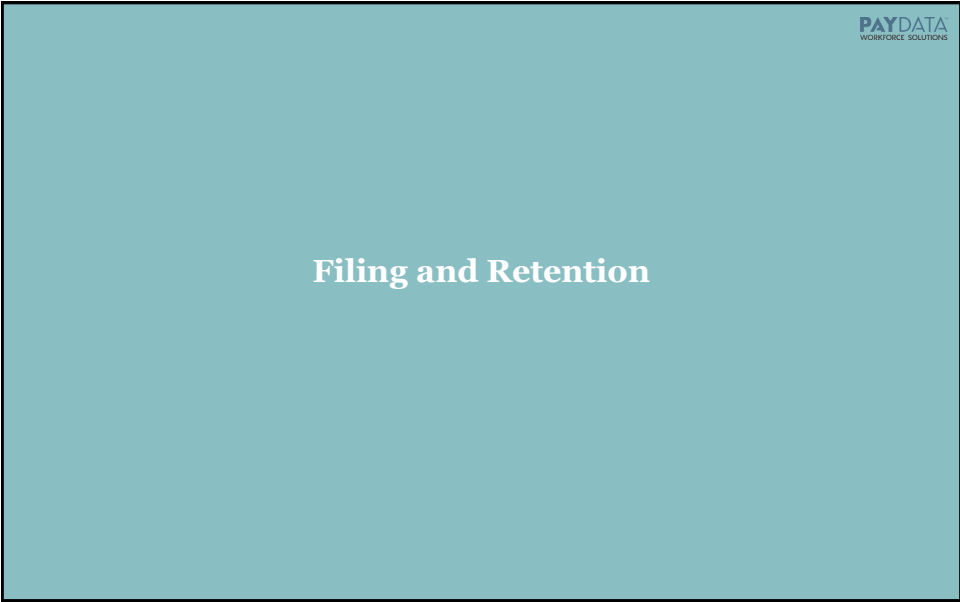


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Agenda

- Filing & Retention
- The Form I-9 in-depth
- Acceptable Documents
- Penalties & Other Considerations
- E-Verify
- Audits
- Q & A

2

A slide with a grey background. On the right side, there is a vertical stack of papers, some with labels, and the PAYDATA logo is visible in the top right corner of this image. On the left side, there is a white rectangular box containing the following text:

Form I-9 File

- Keep current employee and terminated employee files separately
- Alphabetized in a 3-ring binder

4

Form I-9 Retention

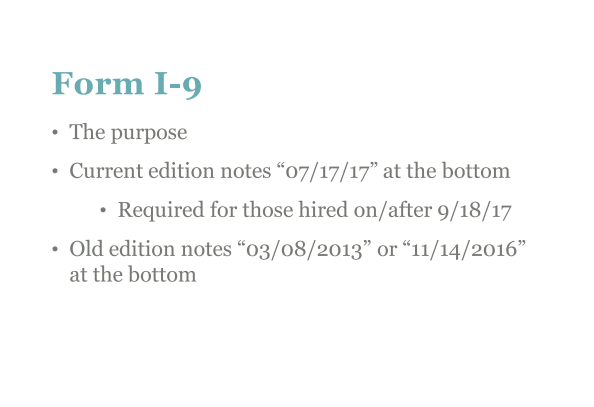

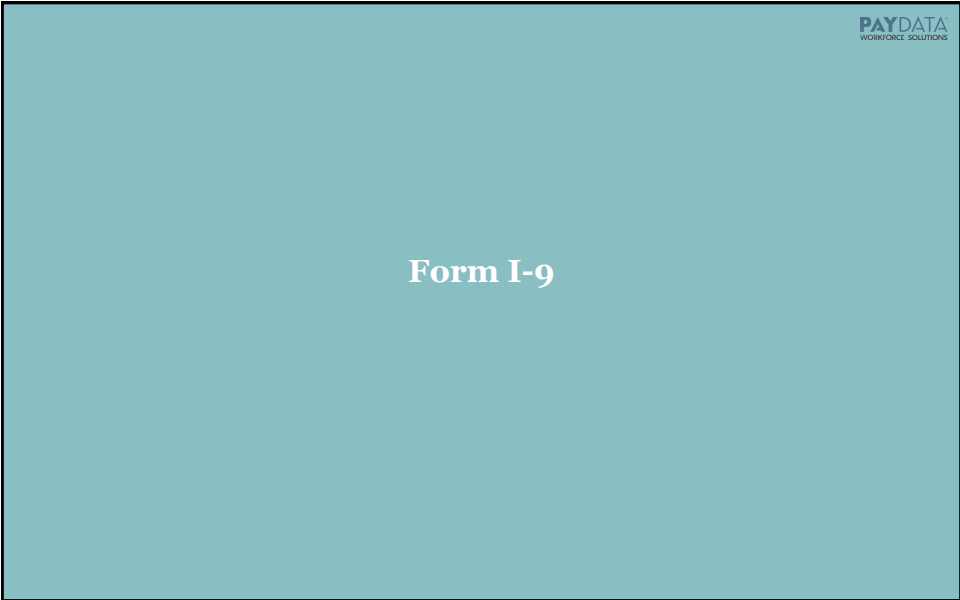
- **For as long as the employee works for you and the later of the following:**
3 years after the hire date, or 1 year after termination
- **Easy math:**
 - Employee's Start Date + three years = date A
 - Employee's Termination Date + one year = date B
 - Store their form I-9 until the later of the two dates

5

Form I-9 Destruction

- Destroy once the retention period expires
- Utilize a secure method
- Document which I-9s have been destroyed
- Do not destroy if undergoing an audit

6



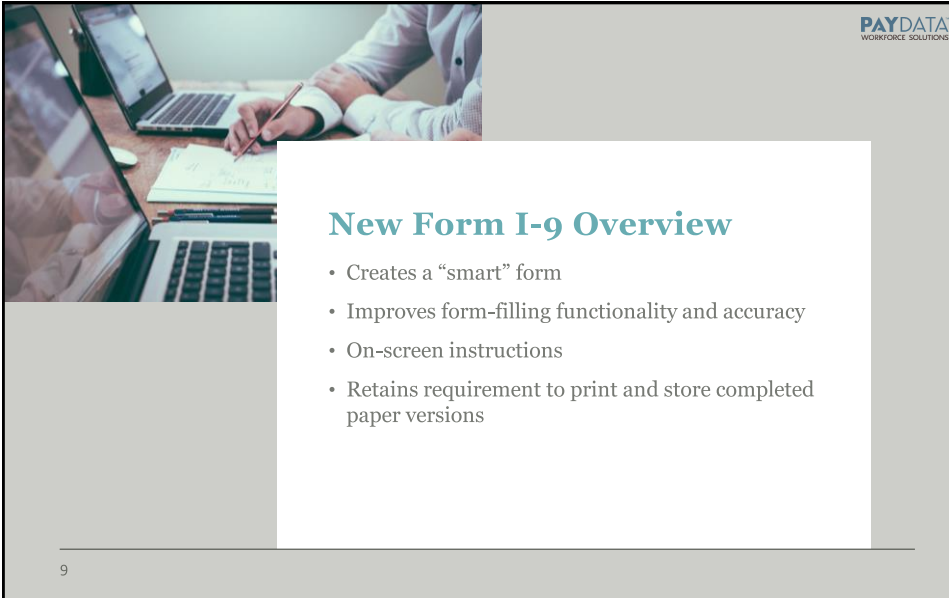
Form I-9

- The purpose
- Current edition notes “07/17/17” at the bottom
 - Required for those hired on/after 9/18/17
- Old edition notes “03/08/2013” or “11/14/2016” at the bottom

8

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The slide features a background image of an office setting with two laptops and a person's hands writing on a notepad. A white text box is overlaid on the right side of the image, containing the title "Form I-9" and a bulleted list. The "PAYDATA WORKFORCE SOLUTIONS" logo is in the top right corner, and the number "8" is in the bottom left corner.

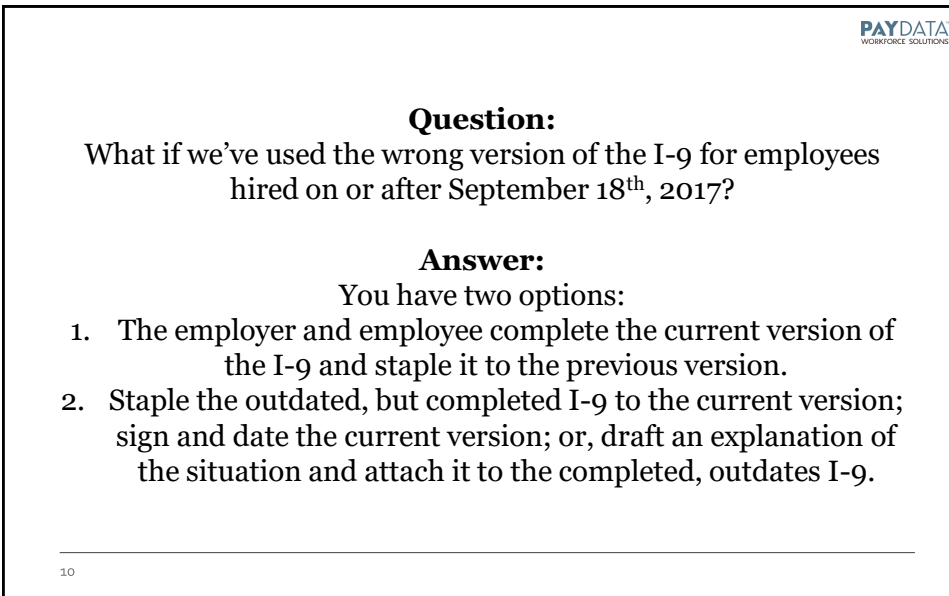


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New Form I-9 Overview

- Creates a “smart” form
- Improves form-filling functionality and accuracy
- On-screen instructions
- Retains requirement to print and store completed paper versions

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Question:
What if we’ve used the wrong version of the I-9 for employees hired on or after September 18th, 2017?

Answer:
You have two options:

1. The employer and employee complete the current version of the I-9 and staple it to the previous version.
2. Staple the outdated, but completed I-9 to the current version; sign and date the current version; or, draft an explanation of the situation and attach it to the completed, outdated I-9.

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Who Completes Form I-9

- Employer or employer representative
- Section 2 must be completed by the individual that reviewed the IDs
- Notary public acting as an employer representative
 - Discuss this with a notary ahead of time, as some cannot complete section 2
 - No notary is required

11

Question:

Do owners of the company have to complete an I-9?

Answer:

All *employees* must complete an I-9.
So, more than likely.

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When is a Form I-9 NOT Required

- Non-Employees such as volunteers, unpaid interns, and independent contractors
- Employees:
 - Hired before 11/6/1986
 - Hired for casual domestic work in a private home
 - Providing labor to you who are employed by a contractor providing contract services (e.g., employee leasing or temporary agencies);
 - Not physically working on U.S. soil

Section 1: Employee's Responsibility

Section 2, Part I: Employer's Responsibility

Document Title ?

- N/A
- U.S. Passport
- U.S. Passport Card
-
- Perm. Resident Card (Form I-551)
- Alien Reg. Receipt Card (Form I-551)
- Foreign Passport with Temp. I-551 Stamp
- Foreign Passport with Temp. I-551 MRIV
- Employment Auth. Document (Form I-766)

Instructions Start Over Print

UNCLIS
Form I-9
OMB No. 1617-0047
Expires 06/30/2019

Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

Section 2. Employer or Authorized Representative Review and Verification
(Employers or their authorized representatives must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "List of Acceptable Documents.")

Employee Info from Section 1: Last Name (Family Name) First Name (Given Name) M.I. Citizenship/Immigration Status

LIST A	OR	LIST B	AND	LIST C
Identify and Employer Authorization		Identify		Employment Authorization
Document Title		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number		Document Number		Document Number
Expiration Date (if any) (mm/dd/yyyy)		Expiration Date (if any) (mm/dd/yyyy)		Expiration Date (if any) (mm/dd/yyyy)
Document Title		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number		Document Number		Document Number
Expiration Date (if any) (mm/dd/yyyy)		Expiration Date (if any) (mm/dd/yyyy)		Expiration Date (if any) (mm/dd/yyyy)

Additional Information

Get Code: Section 8.1 Do not fill in this box

Section 1 refers, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee.

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Question:

If we photocopy documents and send them to HR with the I-9, can the HR person at our company fill in Section 2?

Answer:

No, the same company representative that reviews the employee's documents must fully complete Section 2, even if photocopies are made.

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Section 2, Part II: Certification

Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): (See instructions for exemptions)

Signature of Employer or Authorized Representative <input type="text"/>	Today's Date (mm/dd/yyyy) <input type="text"/>	Title of Employer or Authorized Representative <input type="text"/>
Last Name of Employer or Authorized Representative <input type="text"/>	First Name of Employer or Authorized Representative <input type="text"/>	Employer's Business or Organization Name <input type="text"/>
Employer's Business or Organization Address (Street Number and Name) <input type="text"/>	City or Town <input type="text"/>	State <input type="text"/> ZIP Code <input type="text"/>

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Section 3: Reverification and Rehires

Employee Name from Section 1:	Last Name (Family Name) <input type="text"/>	First Name (Given Name) <input type="text"/>	Middle Initial <input type="text"/>
Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)			
A. New Name (if applicable) <input type="text"/>		B. Date of Rehire (if applicable) <input type="text"/>	
Last Name (Family Name) <input type="text"/>	First Name (Given Name) <input type="text"/>	Middle Initial <input type="text"/>	Date (mm/dd/yyyy) <input type="text"/>
C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.			
Document Title <input type="text"/>	Document Number <input type="text"/>	Expiration Date (if any) (mm/dd/yyyy) <input type="text"/>	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized 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 <input type="text"/>	Today's Date (mm/dd/yyyy) <input type="text"/>	Name of Employer or Authorized Representative <input type="text"/>	

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Question:

Do I need a new I-9 when I rehire an employee?

Answer:

You have two options:

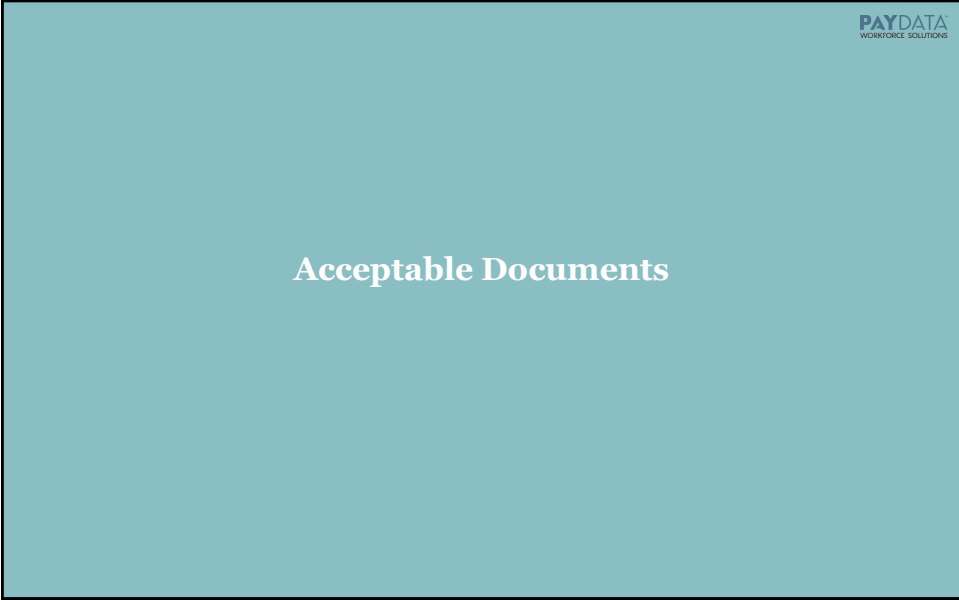
1. You may complete a new I-9 for the rehired employee.
or,
2. If the rehire is within 3 years of the date of the initial I-9, you can review the original I-9 and complete Section 3, the Reverification and Rehires section.

Question:

Do I need a new I-9 when an employee legally changes their name?

Answer:

Completing a new I-9 is not permissible. Updating the original I-9 is recommend, but not required.



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List of Acceptable Documents

Employees must present: one ID from List A; *OR* one ID from List B *and* List C

LISTS OF ACCEPTABLE DOCUMENTS
All documents must be **UNEXPIRED**

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
--	----	--	-----	--

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List A of Acceptable Documents

LIST A Documents that Establish Both Identify and Employment Authorization	
1.	U.S. Passport or U.S. Passport Card
2.	Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
3.	Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa
4.	Employment Authorization Document that contains a photograph (Form I-799)
5.	For a nonimmigrant alien authorized to work for a specific employer because of his or her status: <ul style="list-style-type: none"> a. Foreign passport, and b. Form I-94 or Form I-94A that has the following: <ul style="list-style-type: none"> (1) The same name as the passport, and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.
6.	Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI



Lists B & C of Acceptable Documents

LIST B Documents that Establish Identify	AND	LIST C Documents that Establish Employment Authorization
1. 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, gender, height, eye color, and address.		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. 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, gender, height, eye color, and address		2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-243)
3. School ID card with a photograph		3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
4. Voter's registration card		4. Native American tribal document
5. U.S. Military card or draft record		5. U.S. Citizen ID Card (Form I-197)
6. Military dependent's ID card		6. Identification Card for Use of Resident Citizen in the United States (Form I-179)
7. U.S. Coast Guard Merchant Mariner Card		7. Employment authorization document issued by the Department of Homeland Security
8. Native American tribal document		
9. Driver's license issued by a Canadian government authority		
For persons under age 18 who are unable to present a document listed above:		
10. School record or report card		
11. Clinic, doctor, or hospital record		
12. Day-care or nursery school record		

List of Acceptable Documents

- Documents must be unexpired
- Documents must be presented within 3 business days of hire
- Photocopied documents are not acceptable
- Receipts in lieu of IDs
- Accept documents that reasonably appear to be genuine and relate to the person presenting them

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Question:

What should I do about an I-9 for a remote employee?

Answer:


There isn't much wiggle room here, as the documents must be in-hand of the company representative who completes Section 2, and in the presence of the new employee.

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Document Type	Issuing Authority
U.S. Passport or Passport Card	U.S. Department of State
Permanent Resident Card	U.S. Citizenship and Immigration Services (USCIS)
Employment Authorization Card	U.S. Citizenship and Immigration Services (USCIS)
Driver's License or State-Issued ID	Any state, territory, or Canadian government authority
Social Security Card	U.S. Social Security Administration or U.S. Department of Health & Human Services
Birth Certificate	U.S. Department of State or State, county, municipal authority, or outlying possession of the U.S.

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Question:

Once the I-9 is completed, do the documents have to be updated when they expire?

Answers:

For U.S. Citizens, noncitizen nationals and lawful permanent residents, No. If an individual's work authorization expires, yes.

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Question:

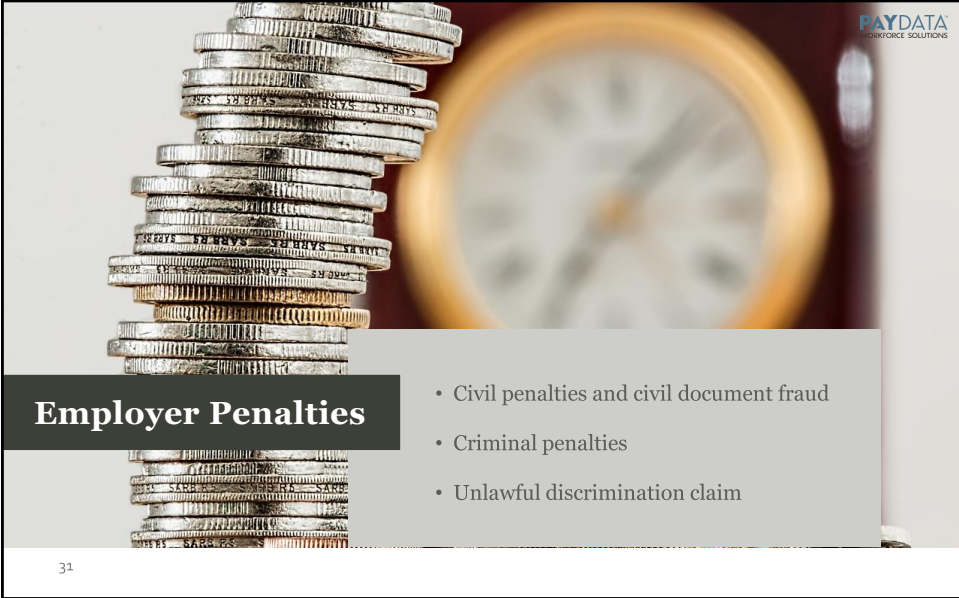
What if an individual's Social Security Card states "Not Valid for Employment" or "Valid for Work only with DHS Authorization"?

Answer:

A card with either of these statement is not valid for employment for acceptable for completion of the I-9. These cards may be used with time limited work authorizations such as a H1b or student visa. Unless other documents have been provided to establish work authorization, defer to the List of Acceptable Documents.

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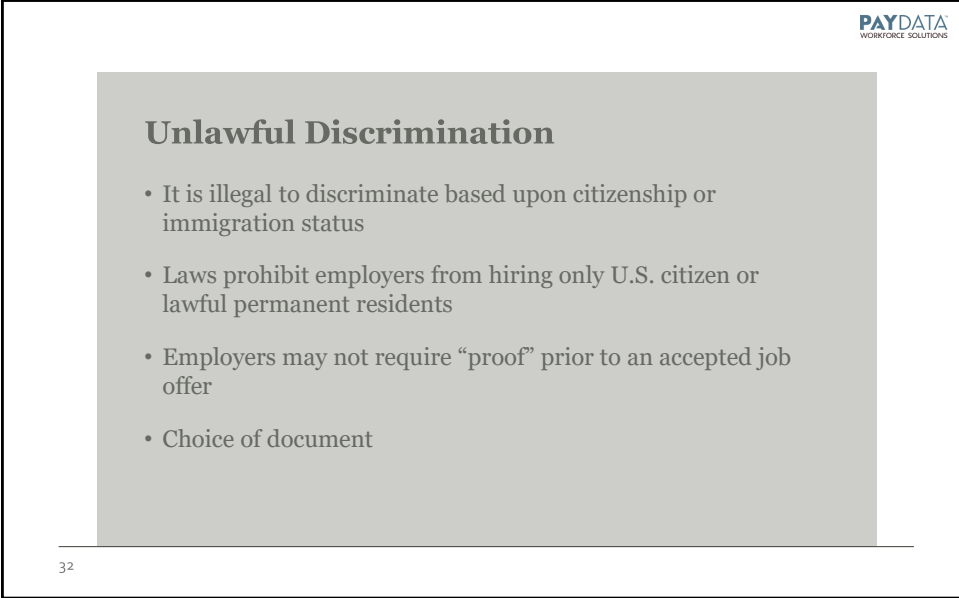
Penalties and Other Considerations



Employer Penalties

- Civil penalties and civil document fraud
- Criminal penalties
- Unlawful discrimination claim

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Unlawful Discrimination

- It is illegal to discriminate based upon citizenship or immigration status
- Laws prohibit employers from hiring only U.S. citizen or lawful permanent residents
- Employers may not require “proof” prior to an accepted job offer
- Choice of document

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Allowed Candidate Questions

- Acceptable employment application questions:
 - “Are you authorized to work lawfully in the United States for [Company Name]?”
 - “Will you now or in the future require [Company Name] to commence (“sponsor”) an immigration case in order to employ you (for example, H-1B or other employment-based immigration case)?”
- This is sometimes called “sponsorship” for an employment-based visa status.

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E-Verify

What is E-Verify?

- Internet-based system that compare information from the I-9 to government records
- Free USCIS system
- Does not change the I-9 process and is *not* completed in lieu of an I-9

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E-Verify Requirements

- Optional for most U.S. employers
- **Required by federal or state law:**
 - Federal contractors and subcontractors if the contractor contains the Federal Acquisition Regulation E-Verify clause
 - Required in: Alabama, Arizona, Mississippi, and South Carolina
 - Required for some employers, based on size in: Georgia, North Carolina, and Tennessee

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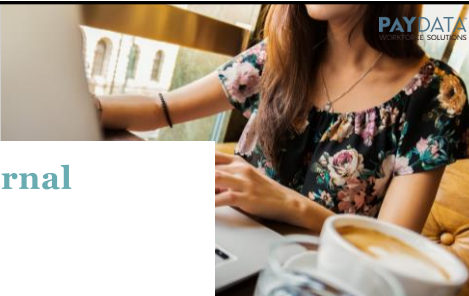
E-Verify Requirements

If you participate in E-Verify (voluntarily or based on required use):

- Newly hired employees must provide a Social Security Number
- Any List B document must contain a photograph
- Certain documents must be photocopied for E-Verify photo matching (U.S. Passport or passport card, Permanent Resident Card, Employment Authorization Document, U.S. Passport or passport card)

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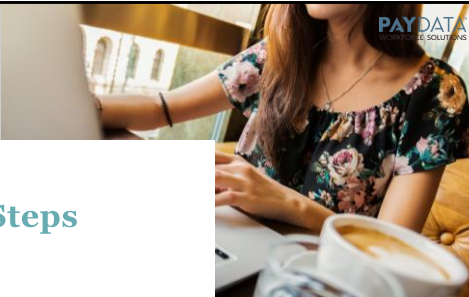
Audits



Conducting an Internal I-9 Audit

- Why audit
- When to audit
- What is generally found in an audit

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Internal I-9 Audit Steps

- Organize documents
- Determine priorities
- Reach out to each employee without an I-9 or with an incomplete I-9
- Corrections
- Terminated employees
- Recording the audit

40

Question:

If we think the I-9 isn't properly filled out, can we have all employees fill out the form again?

Answer:

No, you need to conduct an audit to determine which documents are missing or sections are incomplete.

41

Question:

If an employee makes an error in Section 1 that I catch later, is it acceptable for *me* to correct it and initial/date?

Answer:

No, you must ask the employee to correct an error/omission in Section 1 of the Form.

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Monica Weimar

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WORKFORCE SOLUTIONS
Insight

SPHR, SHRM-CP | HR Consultant

Monica has held roles as an HR Generalist and Payroll and Benefits manager at a large ski resort, providing HR guidance to more than 500 employees. She also has HR experience in the healthcare field and the non-profit world. Monica holds a Bachelor of Science degree from Linfield College.

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