



# Avoid These Common Mistakes When Completing Form I-9

Get familiar with the most recent version of the form

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The Form I-9 is a complicated document that recently has been changed, so employers should be vigilant about avoiding common mistakes when filling it out, cautioned Becki Young, an attorney with Hammond Young Immigration Law in Silver Spring, Md. She highlighted common mistakes and explained some of the main differences between the old and new forms at a SHRM 2017 Annual Conference & Exposition session.

## Common Mistakes

Kathy Paulsen, SHRM-SCP, director of human resources for NorthPark in Dallas and a conference attendee, said that she was taking over as HR director following in the footsteps of someone who had worked at the company for 36 years. While preparing for a 401(k) audit, she decided to look at the I-9s and realized no one had done an I-9 audit for a long time. She said she was attending the session for some hints or ideas on conducting an I-9 audit.

According to Young, there are some common mistakes to avoid.

List A, B and C document information sometimes is transposed. For example, data about a permanent alien resident card, such as a green card, which is a List A document, sometimes is accidentally put in the spaces for List B or C documents.

An employee who presents a valid List A document doesn't need to present other documentation. A worker who presents a valid List B document also must present a document from List C. However, employers can't specify which documents they want to receive.

One common mistake is to not complete all fields, including the fields for U.S. immigration status and the expiration of work authorization.

Employees sometimes mistakenly enter their birthday instead of the date in Section 1.

Employers must record any information on the document itself. They cannot say "see attached," Young cautioned, although attaching all documents for reference is a best practice.

The initial verification must be completed no later than three days after hire. And there must be reverification prior to the expiration of work authorization, including reverification for individuals who have temporary protected status (TPS).

"TPS is an odd duck," Young said, explaining that it provides automatic extension of status for individuals from certain countries.

The employer is not expected to be a document expert but should be on the lookout for obvious irregularities such as computer-generated signatures, overly large or small fonts and extended spacing between letters, as these could be indications of fake documentation.

If you want to be able to fire employees who present fake documents, make sure you have a dishonesty policy, Young recommended.

I-9s need to be retained for the *later* of three years from the date of hire or one year from the date of termination. She recalled one employer that thought it was the earlier of the two.

### Differences Between Old Form and New

The most recent version of the I-9 was adopted on Nov. 14, 2016; Jan. 22, 2017, was the deadline to start using it. Employers are not required to update existing employees' I-9s with the new Form I-9.

Changes to Section 1 of the form, the employee's section, include the requirement that users must enter "N/A" in any blank fields.

If the new hire attests to being a foreign national authorized to work in the United States, he or she can provide either an alien number, I-94 number or foreign passport number, Young noted. Previously, the I-94 and passport were needed.

There is a box for additional information on the new I-9 in Section 2, the employer section. Young cautioned that whatever is written on the form is fair game in an investigation and said she has seen some "scary things" there. One employer noted that it had both an old Social Security number for an employee and a new one and said, "here are both"—which is not good-faith compliance with the law.



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Section 3 regarding reverification has not changed, but any reverifications after Jan. 22 must be done using the revised form, she noted.

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