



Fact Sheet: Immigration Reform and Control Act (IRCA)

Note: you must always use the latest I-9 form available. The current form has the expiration date of 3/31/16.

Who's covered?

All employers and employees

What does it prohibit?

- Employment of individuals who are present in the U.S. without authorization to work
- Discrimination on the basis of national origin or citizenship by employers with 4 or more employees
- Selective use of I-9 forms to pre-screen employment applicants

Documentation requirements:

- Applicants must provide documentation sufficient to verify identity and eligibility to work drawn from Lists A-C in the Lists of Acceptable Documents on the back of the I-9 form
- Applicants and employers must complete their respective sections of the I-9 form
- Specific employer requirements relating to documentation:
- Complete Sections 2 and 3 of applicants' I-9 forms
- Examine the qualified documentation provided by a new employee within 3 days of the beginning of employment
- Must review documents provided by applicants to determine authenticity

What are an employer's record-keeping responsibilities?

- Keep I-9 form for 3 years following date of hire or one year following termination
- Keep a physical copy of the I-9 form (not in electronic format)
- Must make form available to INS within 3 days of any request

What are the potential penalties?

- Monetary fines
- Back pay
- Attorneys' fees
- Criminal penalties, including imprisonment

Top IRCA tips

- Be vigilant and look for potential document fraud
- Follow all record-keeping requirements
- Do not use I-9 documentation for any purpose other than verification
- Keep any photocopies made of I-9 documentation with the I-9 form itself

Seven Common I-9 Related Mistakes

1. First, not filling out Section 1 of the I-9 on the first day of employment, the day the new employee starts earning an income. The employee then has three days to bring in documentary evidence to prove his or her legal right to work in the U.S.
2. Second, the employer insisting upon which documents the new hire has to bring in. The employer must show the employee a list of which documents are acceptable, and in which combination, and then leave the choice up to the new hire. Otherwise, the employer can open itself to charges of discrimination. (An "A" list document is sufficient in and of itself to verify work eligibility, but a "B" list document must be supplemented by a "C" list document.)

3. Third, a lawful legal resident or "alien authorized to work" failing to enter his or her "A" number or USCIS number.
4. Fourth, the employee neglecting to sign or date the document.
5. Fifth, failing to complete Section 2 within three days. The employee has three days after first day of hire to bring in acceptable documents, and the employer must complete the process within the same time span. Section 2 is where the documents are recorded.
6. Sixth, not properly entering the documents' titles, issuing authority or expiration date.
7. Seventh, employer or employer's representative neglecting to sign or date the I-9.