

# August 1st – New Form I-9 Version and Permanent Option for Remote Verification of Employees for Employers Using E-Verify

## Labor & Employment Law Update

By Sara Zorich on July 24, 2023

On August 1<sup>st</sup>, United States Citizenship and Immigration Services (USCIS) will publish the new Form I-9 for employers to use to confirm a new employee's authorization to work in the United States. Employers are encouraged to begin using the new form on August 1<sup>st</sup> for all new hires, but may use the current form (version 10/21/19) through October 31<sup>st</sup>. Starting November 1, only the new Form I-9 may be used for newly hired employees and reverifications. The new Form I-9 will be a single page and will include a checkbox for employers to indicate they examined Form I-9 documentation remotely under a new Department of Homeland Security (DHS)-authorized alternative procedure (see further information below). USCIS is moving the Preparer/Translator Certification and the Reverification/Rehire sections to stand alone documents. Thus, if either of those situations apply, employers must complete a separate document and maintain it with the Form I-9.

### **E-Verify Employers**

Additionally, DHS has issued a final rule which provides an alternative to the in-person physical review of an employee's Form I-9 documents. E-Verify participants will be allowed to remotely verify any new employee's Form I-9 work authorization document(s) hired at an E-Verify hiring site. This alternative can only be utilized by E-Verify employers in good standing at their E-Verify participating hiring sites. Employers utilizing this "remote verification" option must retain clear and legible copies of all documents presented by the employee which establish identity and work authorization.

Practically, the "remote verification" will first require the employee to submit copies of their Form I-9 work authorization document(s) (front and back) to the employer. Then the employee must participate in a live video interaction (i.e. zoom, facetime call, etc.) with the employer where the employer can examine the documents "live" and see the employee to ensure the documents reasonably relate to the employee. Next, the employer will complete Section 2 of the Form

I-9 indicating that they utilized the alternative verification procedure. Finally, the employer must then complete E-Verify for the employee. This process (Form I-9 completions and E-Verify completion) must be done within three (3) business days of the employee's first day of work for pay.

In addition, this new rule has an additional benefit for E-Verify employers regarding their remote working authorization verifications during COVID-19. DHS is allowing employers who are in good standing, participated in E-Verify between March 20, 2020 and July 31, 2023 and utilized it to verify new hires, to use this new alternative to comply with their "in-person" verification requirements that must be met by August 30<sup>th</sup>. Such employers will not complete E-Verify again for this COVID reverification process.

Employers should take this opportunity to review their Form I-9 compliance procedures, record retention procedures and policies and ensure they are prepared to comply with the new Form I-9.

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