

IMMIGRATION**NEW FORM I-9 AGAIN FOR EMPLOYERS**

by Kathleen Campbell Walker

On July 17, 2017 U.S. Citizenship and Immigration Services (USCIS) [announced](#) the availability of a new version of the Form I-9. The new version has a revision date of 07/17/17.

When Must the New Version of the Form I-9 be used?

September 18, 2017

What Versions of Form I-9 can be used from now through September 17?

Versions 11/14/16N and 07/17/17N. It will be useful to use the transition time to implement the use of the new form. Of course, USCIS has revised its website to remove the posting of the 11/14/16N version.

1. What are the revisions to the [instructions](#) for the new Form I-9?

a. Updated the reference to the Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices to its new name, Immigrant and Employee Rights (EIR) section.

b. Removed the phrase "end of" from the phrase "first day of employment" as to the deadline for the employee to complete and sign Section 1 of the Form I-9.

2. What are the revisions to the [new Form I-9](#)?

a. List C in section 2 of the Form I-9 as to employment eligibility documents now includes the Consular Report of Birth Abroad (FS-240). This option has been added to the drop down menu of the interactive version of the Form I-9 as well as to E-Verify.

b. List C in section 2 of the Form I-9 now includes all versions the Consular Report of Birth Abroad into one selection (FS-545, DS-1350, and FS-240)

c. List C was renumbered. The renumbering did not affect the social security card option.

d. The changes were included in an updated version of the [Handbook for Employers \(M-274\)](#).

3. Is there a penalty for failing to use the correct version of the Form I-9?

Yes, the use of the wrong version of the form can be subject to penalty. The joint guidance memo published by the Departments of Justice and Homeland Security related to internal I-9 audits indicates that employers may correct the error of using the wrong form version by:

a. Stapling the outdated completed form to a blank current version and signing the current blank version noting why the current blank version is attached (e.g., wrong edition was used at time of hire); OR

b. Drafting an explanation and attaching it to the outdated completed Form I-9 explaining that the wrong form was filled out correctly and in good faith.

(I don't know of any employer who has the time to do this, so using the correct version makes a lot of sense!)

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