

I-9 Compliance Actions: New in 2023

Immigration and Customs Enforcement (ICE) recently announced that the COVID-19 temporary flexibilities for Form I-9 verification will end on July 31, 2023. The COVID-19 flexibility allowed employers to review I-9 documents remotely without fear of penalties. Employers will once again be required to view I-9 documents in person. They have agreed to extend this deadline by 30 days so you must take steps to comply by August 30, 2023. We encourage you to begin coordinating this effort as soon as possible to ensure you meet the deadline.

Reach out to [Brighter Strategies](#) if you need help coordinating this effort.

Employers must be in compliance by August 30, 2023

To be in compliance you must take action in two areas:

1. Going forward, create a process (or reinstate your pre-pandemic process) to ensure you can physically review new hire identification to satisfy the requirements of the I-9 within 3 days of hire. You can no longer accept viewing identifying documents remotely via online platforms such as Zoom or Teams, nor accept copies of documents uploaded to systems or via e-mail.
**The documents must be viewed in person by a representative of your company. You can not review your own documents
 - a. If your new hire is remote and unable to present their documents in person you need to engage with a vendor, attorney, or registered agent who can view documents in the geographic area in which the employee lives, within 3 days.
 - i. Many payroll vendors have a partner you can engage with.
 - b. For new hires who can come into your office (or who can appear in any of your offices), have them bring their documents on their first day of employment. You may need to train onsite employees to view the documents and complete the I-9 certification section. The USCIS site offers this guidance: [Complete and Correct Form I-9 | USCIS](#) We encourage you to begin this process now, don't wait.
2. For all I-9's completed between March 20, 2020 and July 31, 2023 you must now physically view the employee's documentation and annotate this action on the original I-9 form for it to be in compliance. **This must be completed by August 30, 2023.
 - a. You could choose to travel to your employees or resolve these actions during upcoming meetings or planning sessions while everyone is together.
 - b. You could choose to engage with a vendor, attorney, or registered agent who can view documents in the geographic area in which the employee lives.

Guidance to update I-9's completed remotely during the COVID-19 temporary flexibility period of 3/20/2020 through 7/31/2023:

During the temporary flexibility period, on page 2 in the *Additional Information* section, you should have noted 'remote inspection' and the date of inspection in this box. In the example below, the representative completed their action on 3/30/2020 in the *Certification* section and then noted the inspection was done remotely on 3/30/2020 within the *Additional Information* box. If your representatives did not note 'remote inspection completed on [DATE]' in that box, please take that action now on any I-9 that falls in this category.


When you physically inspect the identification documents you will add the following to the *Additional Information* box: COVID-19 Documents physically examined on mm/dd/yy by [Company Representative Name]. Once viewed and annotated, no further action is needed, file the annotated I-9 and you are now in compliance.



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

USCIS
Form I-9
 OMB No. 1615-0047
 Expires 10/31/2022

Section 2. Employer or Authorized Representative Review and Verification
(Employers or their authorized representative 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 "Lists of Acceptable Documents.")

Employee Info from Section 1	Last Name (Family Name) Washington	First Name (Given Name) George	M.I. N/A	Citizenship/Immigration Status 2	
List A Identity and Employment Authorization	OR		List B Identity	AND	List C Employment Authorization
Document Title N/A	Document Title Driver's license issued by state/territory	Document Title Social Security card (unrestricted)	Document Title N/A	Document Title Social Security card (unrestricted)	Document Title N/A
Issuing Authority N/A	Issuing Authority Virginia	Issuing Authority Social Security Administration	Document Number N/A	Document Number 123456789	Expiration Date (if any) (mm/dd/yyyy) N/A
Document Number N/A	Document Number 123456	Expiration Date (if any) (mm/dd/yyyy) 02/22/2022	Expiration Date (if any) (mm/dd/yyyy) N/A	Expiration Date (if any) (mm/dd/yyyy) N/A	Expiration Date (if any) (mm/dd/yyyy) N/A
Expiration Date (if any) (mm/dd/yyyy) N/A	Expiration Date (if any) (mm/dd/yyyy) 02/22/2022	Expiration Date (if any) (mm/dd/yyyy) N/A	Expiration Date (if any) (mm/dd/yyyy) N/A	Expiration Date (if any) (mm/dd/yyyy) N/A	Expiration Date (if any) (mm/dd/yyyy) N/A
Document Title N/A	Additional Information Remote inspection completed on 03/30/2020 COVID-19 Documents physically examined on mm/dd/yyyy by AA		QR Code - Section 2 Do Not Write in This Space 		
Issuing Authority N/A					
Document Number N/A					
Expiration Date (if any) (mm/dd/yyyy) N/A					
Document Title N/A					
Issuing Authority N/A					
Document Number N/A					
Expiration Date (if any) (mm/dd/yyyy) N/A					

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): 03/30/2020 (See instructions for exemptions)

Signature of Employer or Authorized Representative <i>Abigail Adams</i>	Today's Date (mm/dd/yyyy) 03/30/2020	Title of Employer or Authorized Representative HR Manager
Last Name of Employer or Authorized Representative Adams	First Name of Employer or Authorized Representative Abigail	Employer's Business or Organization Name Department of Defense
Employer's Business or Organization Address (Street Number and Name) 123 Independence Avenue NW	City or Town Washington	State DC
		ZIP Code 20210

FAQ's:

- **How do I handle physically viewing identification documents for new hires that do not reside where our corporate office (or any office) is located?**
 - Research options to engage a registered agent or vendor who can serve on your organization's behalf and physically view the identification documents in the geographic area where your employee lives.
 - Equifax is one vendor who is offering various packages for this service.
<https://workforce.equifax.com/solutions/i9>
 - Also, check with your payroll provider, they may have a vendor(s) they partner with.
- **I have offices in various states, can I train someone in those offices to complete the required I-9 activity if I send my new hire to the closest office? And, can they also help with the I-9 updates by physically viewing the documents?**
 - Yes, any employee of your company can represent you and complete the physical viewing of documents. We recommend you train anyone tasked with completing the I-9 to ensure they complete it correctly. [Complete and Correct Form I-9 | USCIS](#)
- **During the physical review of documents, what if an employee presents different documents than what was presented when they were hired?**
 - If the documents they present meet the I-9 ID acceptable documents criteria you should complete a new Section 2 on a new Form I-9 and attach it to the original I-9. Annotate the physical inspection on the original I-9.
- **An employee whose I-9 was completed remotely has left our company, do I still have to take action?**
 - Yes, if an employee has left your company and their I-9 was completed remotely you must note this explanation in the *Additional Information* box and provide their date of separation. You are not required to physically view their documents.
- **I input I-9 data into E-Verify, do I need to update E-Verify once I have completed the physical inspection?**
 - No, you should neither create a new E-Verify case nor update the existing E-Verify case following the physical inspection. Everything should be noted on the I-9 form in *Additional Information* only.
- **What if an employee refuses to meet for a physical document inspection, must we terminate the employee?**
 - An employer cannot retain an employee who does not fulfill the Form I-9 documentary requirements which includes the physical review of documents by August 30, 2023.
- **Can an employee do their own physical inspection of their I-9 identification documents?**
 - No, the documents must be physically inspected by an authorized representative of your company but it cannot be the new hire/employee themselves.
- **Do expired documents that were temporarily allowed during the pandemic still qualify as a form of identification?**

- If the employee's document presented during the remote inspection was unexpired at that time you should not request a new document. You can do a physical review of the expired document and complete the annotation.
- [Form I-9 Acceptable Documents | USCIS](#)
- **Where do I go to learn more about the I-9 updates?**
 - [I-9 Central | USCIS](#)
- **What are the fines for not complying with I-9 requirements?**
 - See the following link: [Penalties | USCIS](#)

Quick Guide

New Hires Going Forward

- Determine how you will satisfy the ‘view documents in person’ aspect of all future I-9’s
- Explore engaging with a registered agent, attorney, or vendor who will handle this activity on behalf of your organization
- Or, handle this in-house by having all new hires report to your office on their first day

Existing I-9 Forms

STEP 1:

- Run a report of all new hires between 3/20/2020 and 7/31/2023.
- Collect all I-9 forms where the identification documents were viewed remotely. **If documents were viewed in person on any of these hires, you do not need to take any action
- If an employee has separated from your employment before the physical inspection is complete you must include an explanation and provide their date of separation as an annotation on the I-9.

STEP 2:

- Determine how and when to review the documents in person.
- Coordinate the effort with the employee by providing the compliance date and a list of the acceptable documents they may present.
- Do a physical review of documents for all I-9’s completed remotely between 3/20/2020 and 7/31/2023

STEP 3:

- Once documents are physically viewed, add an annotation to the original I-9 in the *Additional Information* section on page 2.
- Use the following wording: COVID-19 Documents physically examined on [DATE] by [REP NAME].
- Re-file the I-9

Further, coordination of this effort justifies doing an audit of all 'active' employee I-9's to ensure they have been completed correctly and to update, reverify or correct anything that needs correcting as you work on the overall project. I-9 forms that are incorrectly filled out may result in substantial fines if your organization is subjected to an I-9 audit. This link provides guidance on performing an internal I-9 audit and taking good-faith steps to correct your I-9's. [Self-Audits and Correcting Mistakes | USCIS](#)

Keep in mind: Section 1 errors or omissions can only be corrected by the Employee. Sections 2 and 3, errors or omissions can be made by the Employer.