



535 Smithfield Street
Suite 1300
Pittsburgh, PA 15222
(412) 456-2800

www.muslaw.com



Joel Pfeffer
412.456.2877
jp@muslaw.com

I-9 Update

Since 1986, employers have had the obligation to verify the identity and employment eligibility of all newly-hired employees through the completion of the employment eligibility and verification Form I-9. As part of the process of completing Form I-9, employers must examine documents confirming the employee's identity and employment authorization. A single document can confirm both identity and employment authorization, but more often two documents are required for this purpose. The employer must examine the documents and confirm that they appear genuine, relate to the individual name, and meet the requirements of Form I-9 for identity and employment authorization. The form itself lists the documents that satisfy these requirements. More detailed information can be found in the Handbook for Employers, Instructions for Completing Form I-9, Form M-274, which can be found at www.uscis.gov.

The Form I-9 requires the signature of the employer and the employee and records the relevant data from the documents that the employer inspected. It is important that the employer clearly identify the reviewed documents and their identification numbers. It is not necessary to retain copies of the documents. Employers are required to maintain for inspection original Form I-9 for all current employees. In the case of former employees, retention of Form I-9 is required for a period of at least three years from the date of hire or for one year after the employment relationship terminates, whichever is longer.

In completing Form I-9, particular attention should be paid to individuals who are not US citizens. If the employee is a permanent resident alien of the U.S. the document confirming that status will expire, but the status will not. Therefore, it will not be necessary in such a case to update or

re-verify the employee. However, if the employee is neither a U.S. citizen nor a permanent resident alien, the employment authorization status will typically expire and employers should, as part of their protocol, create tickle reminder system in order to update and re-verify the employment authorization or terminate the employee.

The U.S. Department of Labor and the Department of Homeland Security through its U.S. Immigration and Customs Enforcement Bureau (ICE) are the government agencies with authority to review I-9 compliance. ICE is committed to increased work-site enforcement, particularly in low skill and high turnover industries, regions with an employee population where English is not a primary language and when information is received from arrested, terminated or disgruntled employees. In 2008, ICE made more than 1100 criminal arrests and 5100 administrative arrests in connection with worksite enforcement. Employers should regularly audit their I-9 procedures, compliance and recordkeeping; establish a "front desk" protocol, identify persons responsible to deal with government inquiry and be sure that all policies and protocols relating to recordkeeping and government compliance are current and understood by key employees.

Joel Pfeffer is a partner at Meyer, Unkovic & Scott LLP and Chair of the firm's Corporate and Business Law Group. He can be reached at jp@muslaw.com or 412-456-2877.

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