

Employment Law Update: Form I-9 Guidance

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The federal government requires employers to use Form I-9 to record verification of each employee's employment eligibility in the United States. Employers should be aware of two updates, a deadline for the flexibility extension, and upcoming changes to Form I-9.

Extension End Date

The flexibility granted by the [U.S. Immigration and Customs Enforcement](#) to employers in completing Form I-9 is scheduled to end on April 30, 2022. This flexibility has allowed [employers to forgo in-person inspection](#) of documents for those workers hired on or after April 1, 2021, who work exclusively in a remote setting due to COVID-19. According to sources, the flexibility may be extended once again, but for now, the deadline remains April 30, 2022.

Changes to Form I-9

The current Form I-9 used by employers will expire on October 31, 2022. The proposed changes to the Form I-9 intend to reduce paper use, simplify Form I-9, and make it more user-friendly. The current changes suggested by the Department of Homeland Security are below:

- Simplify and reduce the instructions from 15 pages to 7 pages.
- Allow employers to leave unused fields blank instead of requiring them to put "N/A."
- Consolidate Sections 1 and 2 into one page.
- Include a link to List C (some of which were unlisted on the current Form I-9) on the List of Acceptable Documents page so employers can easily access this information.
- Change Section 3 to a Reverification and Rehire Supplement that provides three separate areas to enter reverifications and rehires within three years of the initial execution of an employee's Form I-9. Employers would only print and use the supplement as needed.
- Consolidate the A-number, I-94, and Foreign Passport boxes into one.
- Remove electronic PDF enhancements to ensure that Form I-9 can be completed on all electronic devices and is not software dependent.

The revised Form I-9 is not finalized, and employers are able to submit public comments through May 31, 2022. [Public comments can be submitted through the Federal Register Notice 87 FR 18377.](#)

TAKEAWAY: Employers must be aware of changes in Form I-9 requirements to ensure they comply with the federal government's employee verification process. If you are an employer and need help navigating the employee verification and employment eligibility process or any other federal or New Jersey employment law, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law](#) Team.

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Practice

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