

# Employers Must Soon Use Another 1-9 Form

An updated Form 1-9 has just been released by the USCIS (United States Citizenship and Immigration Services). By September 18, employers must use the revised form with a revision date of 07/17/17 N (date positioned at lower left-hand corner).

Changes to the form are subtle including additional instructions, as well as a modified List of Acceptable Documents.

## Revisions to the Form 1-9 instructions:

- Changed the name of the Office of Special Counsel for Immigration-Related Unfair Employment Practices to its new name, Immigrant and Employee Rights Section.
- Removed "the end of" from the phrase "the first day of employment."

## Revisions related to the List of Acceptable Documents:

- Added the Consular Report of Birth Abroad (Form FS-240) to List C. Employers completing Form 1-9 on a computer will be able to select Form FS-240 from the drop-down menus available in List C of Sections 2 and 3. E-Verify users will also be able to select Form FS-240 when creating a case for an employee who has presented this document for Form I-9.
- Combined all the certifications of report of birth issued by the Department of State (Form FS-545, Form DS-1350, and Form FS-240) into selection C #2 in List C.
- Renumbered all List C documents except the Social Security card. For example, the employment authorization document issued by the Department of Homeland Security on List C changed from List C #8 to List C #7.

Although the changes to the Form I-9 are slight, failure to use the new form and comply by the September 18 deadline can result in large fines. In 2016 an increase in the fine amounts for Form I-9 violations took effect.

- **Simple Form-I-9 violations:** The minimum fine has increased from \$110 to \$216 per Form I-9 violation, while the maximum fine increases from \$1,100 to \$2,156 per Form I-9 violations. Fines for second and third offenses have also increased to a similar degree.
- **Unlawful Employment of Unauthorized Workers:** For the first offense, the minimum fine has increased from \$375 to \$539, while the maximum fine increased from \$3,200 to \$4,313 per worker (fines for second and third offenses also increased).
- **Unfair Immigration-Related Employment Practices:** The minimum penalty has increased from \$375 to \$445, while the maximum penalty increased from \$3,200 to \$3,563 per charge. Repeat offenders now face a new maximum penalty of \$21,563.

It is unlikely that the Trump administration will slow down the employer driven immigration compliance mechanisms. Based upon early actions to increase enforcement and hire more ICE agents, it is increasingly likely employers will face enforcement actions in the form of ICE audits, workplace raids, and employee deportation.



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If you have any questions about how to properly complete the Form I-9, please contact me at [dgarrett@websterrogers.com](mailto:dgarrett@websterrogers.com) or call 843-448-1500.