# HR ESSENTIALS FORM I-9 VERIFICATION PROCESS

MARLO P. KIBLER, MBA

DIRECTOR, HR SERVICES - UNIVERSITY OF TEXAS AT AUSTIN

### Disclaimer

The information contained in this seminar is intended for educational purposes only and may contain references to Immigration and employment laws. It is not to be substituted for legal advice. Specific questions regarding I-9 processing, the E-Verify process or Workday rules related to the I-9 function, or any of the foregoing subject matter should be directed to the University of Texas at Austin Human Resources Service Center.

For more information on the law and regulations please see refer to the E-verify Web site: <a href="https://www.e-verify.gov">www.e-verify.gov</a>

## Agenda

Background of Immigration Reform and Control Act (IRCA)

Employment Verification and completing Form I-9 / I-9 Process

Acceptable Documents for the verification I-9

Immigrant and Employee's Rights

I-9 Examples

**Examining Document Requirements** 

**Using Document Receipts** 

Reverifications and Rehire

**Process** 

Form I-9 Exceptions

**Avoiding and Correcting Errors** 

Penalties

**Best Practices** 

### Pre-test

	ployee who on a Form I-9	does not have a social security is:	s not allowed to work without
a	Tru <u>e</u>	False	
2. Employe	es who are v	vorking 0% effort will not need	a Form I-9?.
a T	rue	False	
3. All Unive	ersity of Texas	at Austin student employees are	exempt from completing a Form I-9.
a Tr	rue	False	
4. The law	requires tha	employees complete the Form	I-9 on their first day of work.
a T	rue	False	
5. If an em	ployee is livid to complete	ng outside of the United States e an I-9 during their initial onbo	and working for U.T. Austin do arding?
a T	rue	False	
6. Employe for U.T. (	ees who have Under "norn	an expired work authorization nal" non-pandemic circumstance	are allowed to remain working es)?
a T	rue	False	
7. One of n	ny document	s are expired, can I still use it to	verify my employment?
a	True	False	



## Immigration Reform and Control Act (IRCA) Background

In 1986, in an effort to control illegal immigration, congress passed the **Immigration Reform and Control Act** (IRCA).

IRCA forbids employers from knowingly hiring individuals who do not have work authorization in the United States.

The employment eligibility verification provisions, and sanction, of <u>IRCA</u> are found in <u>Section 274A</u> of the <u>Immigration of Nationality Act</u> (INA).



## Working in the U.S.

Individuals who may legally work in the United States are:

- Citizens of the United States
- Noncitizen nationals of the United States
- Lawful Permanent Residents
- Aliens authorized to work



## **Employment Verification**

To comply with the employment eligibly verification provision of the INA an employer must:

- Verify the identity and employment authorization documents of employees hired after November 6, 1986
- Complete and retain a Form I-9 for each employee hired after November 6, 1986
- Refrain from discriminating against individual on the basis of actual or perceived national origin, citizenship or immigration status

### **Preventing Discrimination**

The anti-discrimination provisions of the INA prohibit four types of <u>unlawful conduct</u>:

- Citizenship or immigration status discrimination\*
- National origin discrimination\*
- Document abuse during Form I-9 process
- Retaliation

\*Actual or perceived



## Immigrant and Employee Rights Section (IER)

The anti-discrimination provisions of the INA are enforced by:

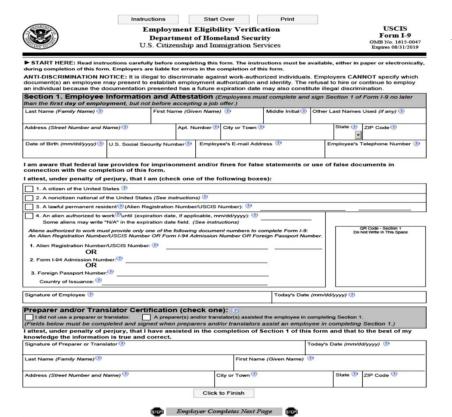
- Department of Justice Civil Rights Division
- Immigrant and Employee Rights Section
  - Employees may contact the Immigrant and Employee Rights Section (IER) to obtain additional information regarding employment discrimination and employee rights and responsibilities\*
    - 1-800-255-7688 (TDD: 1-800-616-5525)
  - Employers may also contact IER\*
    - 1-800-255-8155 (TDD: 1-800-362-2735)
  - Callers may remain anonymous

## Form I-9 Requirements

All U.S. employers must have a Form I-9 on file for all current employees.

- The revised form has a revision date of 10/21/2019. As of May 1, 2020, employers must use this revised form for all newly hired employees and any necessary reverification.
  - Exception: Employers are not required to have Forms I-9 for employee hired on or before November 6, 1986.
- You may delegate the authority to complete the Form I-9 to responsible agent, however, you will retain liability for any errors.

## **Completing Form I-9**



Form I-9 07/17/17 N

Form I-9 OMB No. 1615-0047 Expires 08/31/2019 Department of Homeland Security U.S. Citizenship and Immigration Services Section 2. Employer or Authorized Representative Review and Verification ployee Info from Section 1 Last Lint A Identity and Employs Issuing Authority Issuing Authority Expiration Date (if any)(mm/dd/yyyy) Expiration Date (if any)(mm/dd/yyyy)(1) Expiration Date (if any)(mm/dd/vyyy) (1) Document Title (1) Issuing Authority Additional Information Expiration Date (if any)(mm/dd/yyyy) Document Title (1) Expiration Date (if any)/mm/dd/vvvv) 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): Today's Date (mm/dd/yyyy) 💯 Title of Employer or Authorized Representative Last Name of Employer or Authorized Representative UP First Name of Employer or Authorized Rep Employer's Business or Organization Address (Street Number and Name) U City or Town

Instructions Start Over Print

USCIS

**Employment Eligibility Verification** 

Form I-9 07/17/17 N Page 2 of 4

Click to Finish

### Form I-9 Exceptions

You are **NOT** required to complete **Form I-9** for the following:

- Casual domestic service employee working in a private household when work is sporadic, irregular or intermittent.
- Independent contractors for whom you do not set work hours, or provide tools to do the job.
- Employees working outside the United States\*
  - 50 States, District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands

## **List of Acceptable Documents**

Use the most current Form I-9 version 10/21/2019

You must make the List of Acceptable Documents available to your EMPLOYEE when he or she is completing the Form I-9

#### The EMPLOYEE MUST provide:

- One document from List A
  - Or
- One document from List B & one Document from List C

#### LISTS OF ACCEPTABLE DOCUMENTS All documents must be UNEXPIRED

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

	LIST A  Documents that Establish  Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity At	ND	LIST C Documents that Establish Employment Authorization
2.	U.S. Passport or U.S. Passport Card Permanent Resident Card or Alien Registration Receipt Card (Form I-551) Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-		<ol> <li>Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li> </ol>	1.	A Social Security Account Number card, unless the card includes one of the following restrictions:  (1) NOT VALID FOR EMPLOYMENT  (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION
4.	readable immigrant visa  Employment Authorization Document that contains a photograph (Form I-766)		<ol><li>ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li></ol>	2.	(3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION  Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)
5.	For a nonimmigrant alien authorized to work for a specific employer because of his or her status: a. Foreign passport; and		School ID card with a photograph     Voter's registration card     U.S. Military card or draft record     Military dependent's ID card	3.	Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
	b. Form I-94 or Form I-94A that has the following:         (1) The same name as the passport;		U.S. Coast Guard Merchant Mariner Card	4. 5.	Native American tribal document U.S. Citizen ID Card (Form I-197)
	and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has		Native American tribal document     Driver's license issued by a Canadian government authority	6.	Identification Card for Use of Resident Citizen in the United States (Form I-179)
	not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		For persons under age 18 who are unable to present a document listed above:	7.	Employment authorization document issued by the Department of Homeland Security
6.	Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI		10. School record or report card 11. Clinic, doctor, or hospital record 12. Day-care or nursery school record		

Examples of many of these documents appear in Part 13 of the Handbook for Employers (M-274).

Refer to the instructions for more information about acceptable receipts

## Section 1: Employee Information

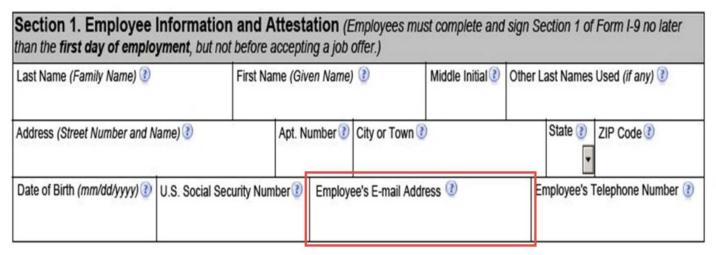
Last Name (Family Name) 🕖	First Na	ame (Given Name	) (1) Middle In	itial Other La	st Names Used (if any) 📵
Address (Street Number and Nam	ne) 🕐	Apt. Number 🕙	City or Town 3		State ② ZIP Code ③
Date of Birth (mm/dd/yyyy) 🕖 U	.S. Social Security Nur	mber Employ	ee's E-mail Address ③	Em	nployee's Telephone Number (

To be completed by **EMPLOYEE**.

Employer **MUST** verify **Section 1** is **COMPLETE**.

• All employees must complete Section 1 no later than the First Day of employment for pay.

## Section 1: Employee Information and Attestation



Employee's email address is an optional Field

Employees should enter N/A if choosing to skip field

**Employers should not enter their business email address in Section 1** 

### **Section 1: Employee Attestation**

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following boxes): A citizen of the United States A noncitizen national of the United States (See instructions) 🔀 3. A lawful permanent resident 🖲 (Alien Registration Number/USCIS Number): 📀 Alien Number An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): ② N/A Some aliens may write "N/A" in the expiration date field. (See instructions) QR Code - Section 1 Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: Do Not Write In This Space An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number. 1. Alien Registration Number/USCIS Number: (2) 2. Form I-94 Admission Number: N/A 3. Foreign Passport Number: ② N/A Country of Issuance: 3 N/A Signature of Employee Todav's Date (mm/dd/vvvv)

The **EMPLOYEE MUST** select one of the four categories and sign and date Section 1 of Form I-9.

All employee must complete **Section 1** no later than the **First Business Day** of employment for pay

## Section 1: Preparer/Translator (P/T) Certification

Required when Section 1 is prepared by someone other than the employee.

- Employees must:
  - •Check the first box if they don't use a prepare or translator. No entries can be made in the fields as the box is equivalent to stating N/A.
  - Check the second box if they use a P/T, then choose from the drop down menu the number of preparers and translators used.

## **QUESTIONS ON SECTION 1**

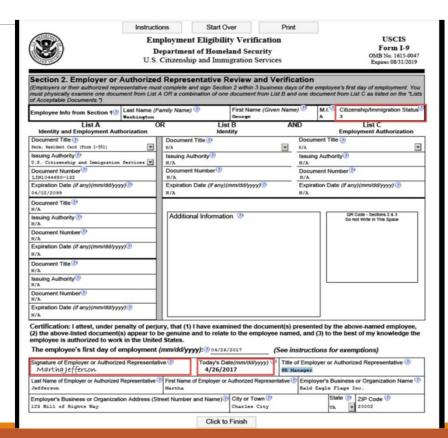
## Section 2: Employer Certification of Document Review

#### Completed by EMPLOYER.

MUST be completed no later than **3** business days after the employee begins 1<sup>st</sup> day of work for pay.

EMPLOYER MUST examine original documents in presence of employee to ensure documents have not been tampered with.

Documents MUST be **UNEXPIRED**.



## Section 2: Examining Documents Expectations

You are not required to be document expert

You MUST accept a document presented by an employee if it:

- Reasonably appears to be genuine; AND,
- Relates to the individual presenting it

The document **MUST** be original\* - photocopies are not acceptable \*Exception: Certified copy of a birth certificate

<u>Employers may not specify which document or combination of documents that</u> the employee should provide.

## Redesigned Green Cards & Employment Authorization Documents

The Permanent Resident Card (Form I-551) and Employment Authorization Document (Form I-766) have been redesigned with:

- Enhanced graphics and farad resistant security features
- A unique graphic image and color palate
  - Green Cards will have an image of the Statue of Liberty and a predominately green palette
  - EAD Cards will have an image of a bald eagle and a predominately red palette



Permanent Resident Card



**Employment Authorization Document** 

## **Employment Authorization Document (EAD) Auto-Extension**

Effective Jan 17, 2017

Rule for Retention of EB-1, EB-2 and EB-3 Immigrant Worker and Program Improvements Affecting High-Skilled Nonimmigrant Workers

Auto Extends Validity period of Certain EAD's for up to 180 days

Employers use expired EAD with Form I-797C

Form I-9 Guidance: <u>Handbook for Employers</u> (M-274) and <u>Auto Extended EAD Fact Sheet</u>

Visit <u>I-9 Central</u> for more information

#### Employment Authorization Document (Form I-766) Sample



The category notation appears on the face of the Employment Authorization Document (Form I-766) under "Category."

The expiration date appears on the face of the Employment Authorization Document (I-766) to the right of "Card Expires."

## Section 2: Receipt Rule

There are only three type acceptable receipts:

- 1. A receipt showing that your employee has applied to replace a document that was **lost**, **stolen** or **damaged**.
  - Employee must present a replacement document within 90 day of the hire date.
  - You cannot accept receipt if employment is less than 3 days.
- 2. The Arrival portion of Form I-94/I-94A with a temporary I-551 stamp and a photograph of the individual.
  - Receipt is valid until the expiration date on the stamp, or one year after the issuance date if the stamp does not contain an expiration date
  - Employee must show you their Permanent Resident Card (I-551) upon expiration.
- 3. The departure portion of the Form I-94/I94A with a refugee admission stamp or computer-generated printout of Form I-94 with admission code "RE"/
  - Employee must present an EAD or List B document and unrestricted Social Security Card within 90 days of the hire date.

## **Section 2: Copying Documents**

You may choose to make copies of employee documentation presented to you for Section 2.

- IF you choose to photocopy documents, you must do so for ALL employee, regardless of actual or perceived national origin, immigration or citizenship status, or you may be in violation or anti-discrimination laws.
- UT Austin only copies documents requiring a photo match (e.g. US passport/passport card, employment authorization card, EAD card, etc.)



## **QUESTIONS ON SECTION 2**

### Section 3: Reverification & Rehires

Employee Name from Section 1:	Last Name (Family Name) 🕖	First N	ame (Given Name) 🕐	Middle Initial ③
Section 3. Reverification and Re	hires (To be completed and signed	by employer o	or authorized representative.)	)
A. New Name (if applicable)			B. Date of Rehire (if applicable,	)
Last Name (Family Name) (7)	First Name (Given Name) (3)	Middle Initial 🕙	Date (mm/dd/yyyy) 🔞	
C. If the employee's previous grant of emplo continuing employment authorization in the s		the information f	for the document or receipt that	establishes
Document Title ②	Document Numb	oer 🕑	Expiration Date (if an	ny) (mm/dd/yyyy) 🕐
I attest, under penalty of perjury, that to the employee presented document(s),				
Signature of Employer or Authorized Repres	sentative ③ Today's Date (mm/dd/yyyy)	Name of En	nployer or Authorized Represent	tative 🕑

You **MUST** reverify an employee using **Section 3** if his or her temporary employment authorization has expired.

#### You MAY also complete Section 3 if you:

- Rehire the Employee within 3 years of the date of initial execution of the Form I-9\*, for US citizens.
- Non-citizens require a new I-9 with any break in service, following UT Austin policy
- Update the biographic information of an employee, such as name change
  - \* USCIS recommends completing a new Form I-9 for Rehires

## **Section 3: When to Reverify**

#### Reverify

- When employment authorization document (List A or C) has an expiration date
- Form I-94 with a temporary I-551 stamp
- An unexpired foreign passport with a temporary I-551 stamp (on a machine readable immigrant visa, MRIV)

#### Do Not Reverify

- U. S. Passport or Passport Card
- Permanent Resident Card (Form I-551)
- List B document

Currently, we have to reverify permanent resident cards otherwise Workday will show the employee has expired work authorization



I-551 Stamp



Unexpired Foreign Passport with 1-551 Stamp

## Documentation for Different Visa Status

## Most Common International Student/Scholar Status

- Visa Status can be found on the I-94 card / printout
- Make sure all documents provided are <u>UNEXPIRED</u>

#### F-1 Status

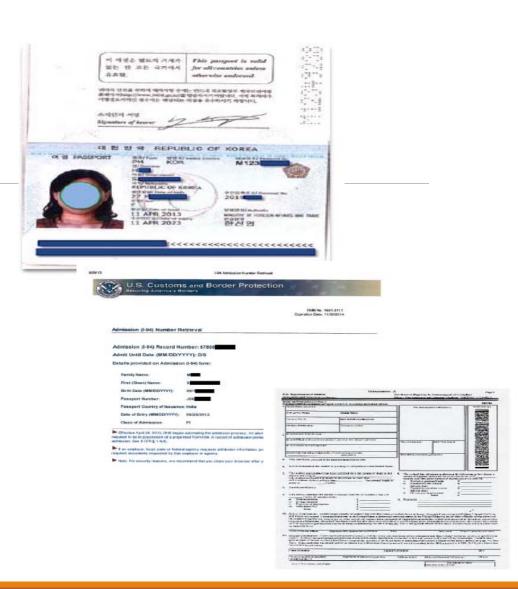
- Foreign Passport
- · I-94
- Form I-20
- J-1 Status
  - Foreign Passport
  - · I-94
  - Form DS-2019

#### H-1B Status

- Foreign Passport
- I-94

## F-1 Status Example

The employee may present you with an Unexpired Foreign Passport, I-94, and Form I-20. These documents establish the employee's identity and employment authorization for Form I-9 purposes and should be recorded under List A in Section 2 of Form I-9.



### **Examples of I-94 Documents**

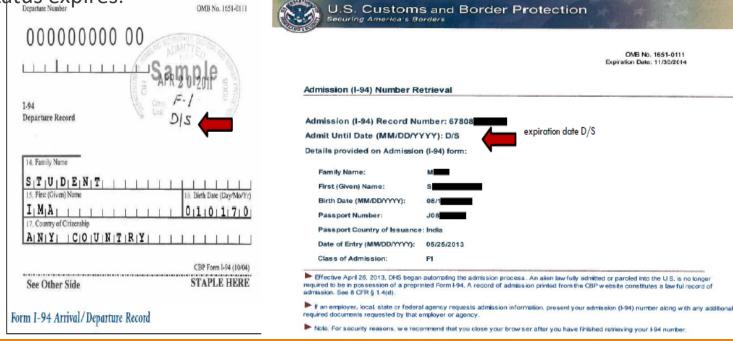
#### Form I-94 or Form I-94A Arrival/Departure Record

U.S. Customs and Border Patrol or U.S. Citizenship and Immigration Services issue arrival-departure to nonimmigrants. This document indicates the bearer's immigration status, the date that the status was

granted, and when the status expires.

While the I-94 will generally list D/S (duration of stay) as the expiration date, the duration of stay for employment cannot exceed their work authorization document expiration date.

Thus, the expiration date for the I-94 should be listed to match that on their work authorization document



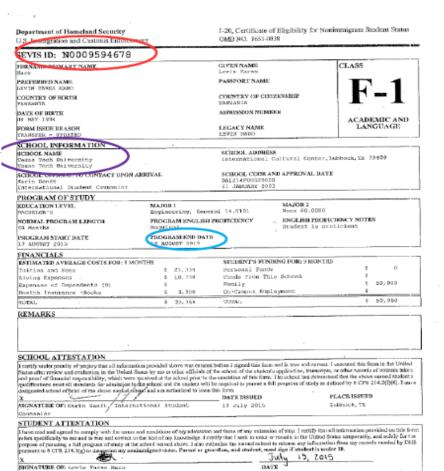
### **Example of Form I-20**

Form Name

**Document Number** 

**Expiration Date** 

School Name – In most cases will be University of Texas however, it is possible that is from another school with an endorsement for University if Texas at Austin employment on page 3.



CE Form I-20 (3/31/2018)

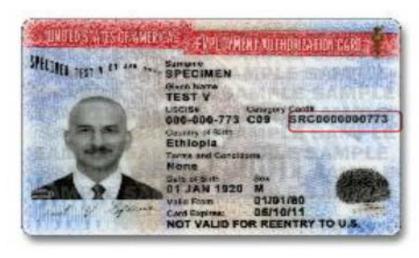
NAME OF PARENT OR GUARDIAN

Page 1 of 5

ADDRESS (city/scare or province/enestry) DADS

## **Example: Employment Authorization Card**

If the employee presents you with an Employment Authorization Document (EAD) that contains a photograph (Form I-766), it is a List A acceptable document.





## New Hire EAD Example



New Hire EAD

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

USCIS Form 1-9 DMB No. 1615-0047 Expires 08/31/2019

► START HERE: Read instructions cerefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form. ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which ANTI-DISORDIMNATION NOTICE. It is maps to accument an agents were appropriated and identity. The related to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute flegal discrimination. Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.) Other Last Names Used (If arry) Monelay No PO Boxes Lubbook Employee's E-mail Address Employee's Telephone Number optional D3/01/1980 renald.wessleyfttu.edu 1406) 342-5678 optional I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form. I attest, under penalty of perjury, that I am (check one of the following boxes): Expiration date from A citizen of the United States the EAD card 2. A nancitizen national of the United States (See instructions) 3. A lawful permanent resident (Alten Registration Number/USCIS Number) 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): Some aliens may write "NIA" in the expiration date field. (See instructions) Alians authorized to work must provide only one of the following document numbers to complete Form L9: An Alen Registration Number/USGIS Number OR Form 1-94 Admission Number OR Foreign Passport Number Alien Registration Number/USCIS Number: 2. Form I-94 Admission Number: 3. Foreign Passaport Number: Country of Issuance: N/A Ron Weesley Preparer and/or Translator Certification (check one): I did not use a preparer or translator. A preparer(a) and/or translator(s) assisted the employee in completing Section 1. (Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.) Lattest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the boot of my knowledge the information is true and correct Signature of Preparer or Translator Today's Date (mm/dd/www Last Name (Family Name) First Name (Given Name) Address (Sireet Number and Name) ZIP Code



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

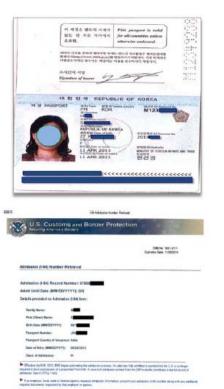
USCIS Form I-9 OMB No. 1615-1047 Expires 08/31/2019

Employee info from Section 1		(Family Name)	First Name (Giver	Nome)	M.L	Citizenship/Immigration Statu
. List A	weasley	OR	Ronald List B	AND	В	4 List C
Identity and Employment Au	thorization		Identity			Employment Authorization
Document Title Employment Auth. Document (Poen 2-76	100	Document Title		Dec	iment Titl	D
lasting Authority		Issuing Authority			ng Author	ity
U.S. Estimanskip and Imagestic Document Number	s services	Document Number			ument Nu	mber
SRC1236551890 Expiration Date (# any)(ram/daly)		Expiration Date (#		B/A		
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ar/a Dertification: Lattest, under p 2) the above-liated document implicite is authorized to wo The employee's first day of Sanature of Employer or Authoric	enalty of pe (s) appear to k in the Uni employment and Represent MATC	o be genuine and to reled States.  at (mm/dd/yyyy): 05 taive Today	V01/2018 (S	ramed, and ce instruct Title of Emp Coordinate Title Emp	d (3) to ti tions for layer or A z loyer's Bu	he beat of my knowledge the exemptions)
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## J-1 Status Example

If an employee presents an Unexpired Foreign Passport, I-94, and DS-2019 you will need to verify if a Sponsor Letter is also needed.

These documents establish the employee's identity and employment authorization for Form I-9 purposes and should be recorded in Section 2 under List A.





## **DS-2019 Example**

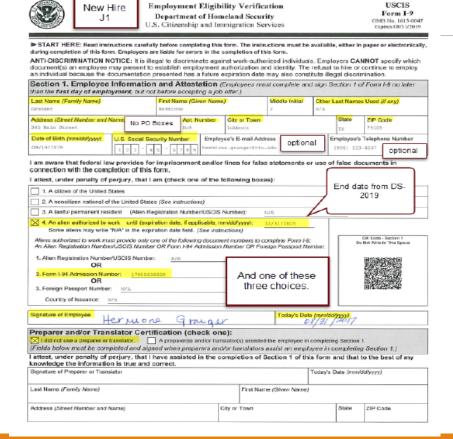
Document number can be found in upper right had corner.

Verify Exchange Visitor Category, if category states Student-additional documentation may be needed.

Expiration Date is located on the middle left of page unless Exchange Visitor Category states student, then defer to Sponsor Letter for expiration.

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## J-1 Example on Form I-9





Employment Eligibility Verification

Department of Homeland Security U.S. Citizenship and Immigration Services USCIS Form I-9 OMB No. 1615-0047 Expires 09/21/2019

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## H-1B Visa Example

This is not the current UT Austin practice. We require the foreign passport, I-94, and I-797A, and the I-797A document is recorded in List A.

An Unexpired Foreign Passport, Form I-94 or Form I-797 establish the employee's identity and employment authorization for Form I-9 purposes and should be recorded in Section 2 under List A of Form I-9.



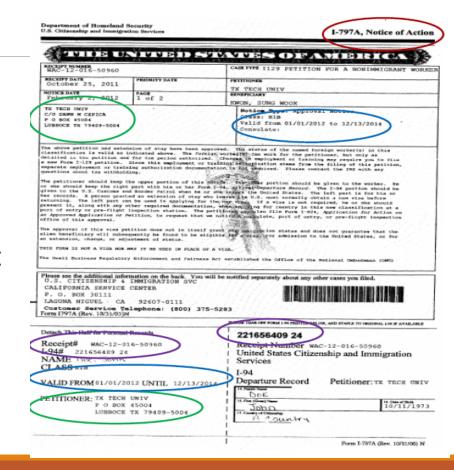
## Form I-797 Approval Notice Example

Form name can be found at top right corner

School or employer name can be found at top and bottom of page.

Valid dates of form can also be found at top and bottom of page.

Record the I-94 number on the Form I-9 and not the Receipt number.



## H-1B Example on Form I-9

New His	e Employment Eligibility Verification Department of Homeland Security U.S. Citizenship and Immigration Services						Form 1-9 OMB No 1615-0007 Expect 987312819
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#### Employment Eligibility Verification

Department of Homeland Security U.S. Citizenship and Immigration Services USCIS Form I-9 OMB No. 1615-0047 Expires 08/3L/2019

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## Correcting the Form I-9

#### **Correcting Mistakes**

- If you discover a mistake on Form I-9, correct the existing form OR prepare a new Form I-9:
  - If you choose to correct the existing Form I-9, line out the incorrect portions, enter the correct information, and initial and date the correction.
  - If you do a new Form I-9, retain the old form. You should also attach a short memo to both the new and old Forms I-9 stating the reason for your action.

#### Missing Forms

- If you discover you are missing the Form I-9 for an employee:
  - Provide the employee with a Form I-9
  - Complete the Form I-9 as soon as possible
  - DO NOT backdate the Form I-9.

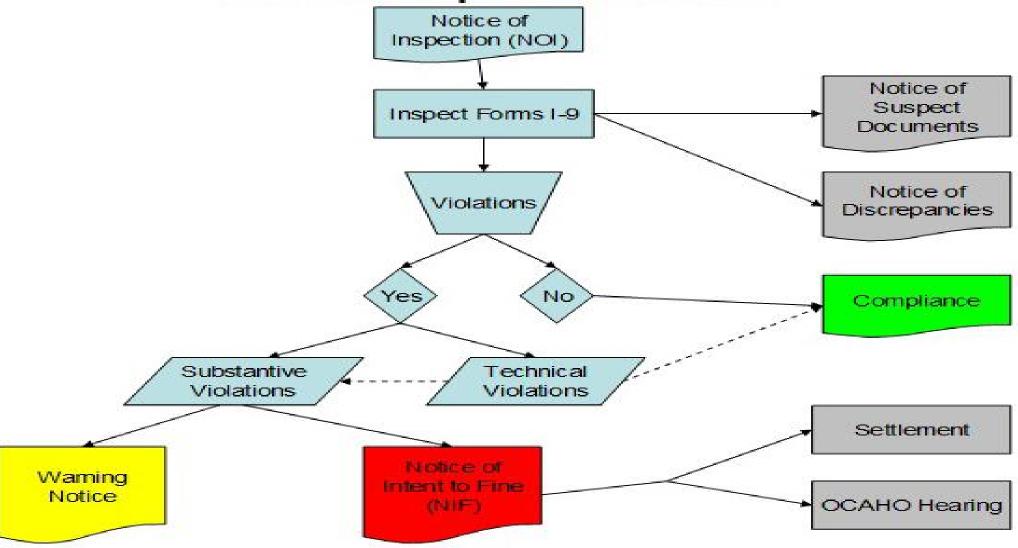


# **Civil Fines and Criminal Penalties For Form I-9 Violations**

Civil Fines and Criminal Penalties for Form I-9 Violations

Civil Violations	First Offense		Second Offense		Third Offense	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Hiring or continuing to employ a person, or recruiting or referring for a fee, knowing that the person is not authorized to work in the United States.	\$375 for each worker.	\$3,200 for each worker.	\$3,200 for each worker.	\$6,500 for each worker.	\$4,300 for each worker.	\$16,000 for each worker.
Falling to comply with Form I-9 requirements.	\$110 for each form.	\$1,100 for each form.	\$110 for each form.	\$1,100 for each form.	\$110 for each form.	\$1,100 for each form.
Committing or participating in document fraud.	\$375 for each worker.	\$3,200 for each worker.	\$3,200 for each worker.	\$6,500 for each worker.	\$3,200 for each worker.	\$6,500 for each worker.
Committing document abuse.	\$110 per violation.	\$1,100 per violation.	\$110 per violation.	\$1,100 per violation.	\$110 per violation.	\$1,100 per violation.
Unlawful discrimination against an employment- authorized individual in hiring, firing, or recruitment or referral for a fee.	\$375 per violation.	\$3,200 per violation.	\$3,200 per violation.	\$6,500 per violation.	\$4,300 per violation.	\$16,000 per violation.
<ul> <li>Pay \$1,100 for each bond the employee is authorized to work in the United States, also called an indemnity bond.</li> <li>Pay \$1,100 for each bond the employee paid to the employee paid to the employer.</li> <li>Refund the employee the full amount of the bond. If the employee cannot be found, this refund will go to the U.S. Treasury.</li> </ul>					mployee the full e bond. If the nnot be found,	
Criminal Violations	First Offense		Second Offense		Third Offense	
Engaging in a pattern or practice of hiring, recruiting or referring for a fee unauthorized aliens.	<ul> <li>Up to \$3,000 for each unauthorized alien.</li> <li>Up to 6 months in prison for the entire pattern or practice.</li> </ul>		<ul> <li>Up to \$3,000 for each unauthorized alien.</li> <li>Up to 6 months in prison for the entire pattern or practice.</li> </ul>		<ul> <li>Up to \$3,000 for each unauthorized alien.</li> <li>Up to 6 months in prison for the entire pattern or practice.</li> </ul>	

#### Form I-9 Inspection Process



## **Storage & Retention**

#### Form I-9 MUST be on file for all current employees.

Store Forms I-9 securely in a way that meets your business needs —on site, off-site, storage facility.

Store copies of documents with the Form I-9 or with the employee's records.

Ensure that only authorized personnel have access to stored Forms I-9.

Make Forms I-9 available within 3 days of an official request for inspection.

Only retain completed forms containing a signature and date.



## **Storage & Retention**

#### Form I-9 must be retained for:

- 3 years after the date you hire an employee; or,
- 1 year after the date employment terminates, whichever is later.

#### Example:

John Smith was hired on November 1, 2017, and terminated on July 5, 2018

$$07/05/2018 + 1 \text{ year} = 07/05/2019$$



#### Effective September 1, 2015

#### What is E-Verify?

- E-Verify is an electronic system that verifies the employment eligibility of:
  - Newly hired employees
  - Existing Employees assigned to work on a qualifying federal contract

E-Verify is a FREE web-based service provided by the Federal Government that is FAST and EASY to use.

Effective 09/01/2015, Governor Greg Abbot signed legislation that requires <u>all State of Texas Agencies to use the Federal E-Verify System for all new employees.</u>

## **E-Verify**

#### E-Verify is **NOT**....

- A system that provides immigration status
- Used for prescreening
- A safe harbor from worksite enforcement

#### **E-Verify Goals**

- **Reduce** unauthorized employment
- Minimize verification-related discrimination
- Be quick and non-burdensome to employers
- Protect civil liberties and employee privacy



## **I-9 Process with E-Verify**

I-9 Process	I-9 Process with E-Verify
Employee completes Form I-9, Section 1.	Employee must include SSN when completing Form I-9, Section 1.
	<ul> <li>If the employee has not been issued his SSN, complete Form I-9 as usual and attach a memo to Form I-9 indicating the reason for the delay in creating the case in E-Verify.</li> </ul>
	If employee provides email address, employer MUST enter it into E-Verify.
Employee chooses which acceptable document(s) to present.	Employee chooses which acceptable document(s) to present.
	If a List B document is chosen, it MUST contain a photograph.
	<ul> <li>If an employee chooses to provide a photo matching document, the employer must make a photo copy and retain with the Form I-9.</li> </ul>
Employer completes Form I-9, Section 2.	Employer completes Form I-9 Section 2.
If necessary, employer updates or re-verifies employee's work eligibility in Section 3.	<ul> <li>E-Verify Case Status will prompt employer to update or reverify in Section 3 or Form I- 9. However, a case should NOT be created in E-Verify.</li> </ul>

**NOTE:** All documents must be unexpired. Names should appear on Form I-9 exactly as they appear on documents. No nicknames should be used.

When using E-Verify voter registration cards cannot be used as a List B document

## When to Use E-Verify?

The Form I-9 must be completed in Workday for all newly hired employees <u>no later than the third</u> <u>business day after the employees' first day for pay.</u>

The I-9 should automatically sync with E-Verify and the E-Verify case results should update almost immediately after completing the I-9 in Workday (refresh page to see updated E-Verify status on I-9)

If the I-9 status does not automatically update as "Employment Authorized" the I-9 partner should **immediately** reach out to the HRSC to review the case in E-Verify

I-9s that are manually launched for an employee must be entered into E-Verify by HRSC staff. I-9 partners must reach out to the HRSC to have these cases entering into E-Verify.

• These I-9s can be identified by the presence of the "Complete Form I-9" task with the twin "Manage Form I-9".

You must have a Social Security number to process an E-Verify case.

An E-Verify case must be completed by the third business day after date of hire.

Communication within departments about your hiring process will be the most proactive step to staying compliant.

## **How E-Verify Works**









# E-Verify Tentative Non Confirmation (TNC)

A TNC issued from E-Verify indicates that the SSA (Social Security Administration) or the DHS (Department of Homeland Security) is unable to verify the information provided for the employee.

It does **NOT** mean that the employee is unauthorized to work.

Once TNC received, no adverse action should be taken against the employee. Employers may not fire, suspend, delay training, withhold, or lower pay during the time the TNC is being contested.

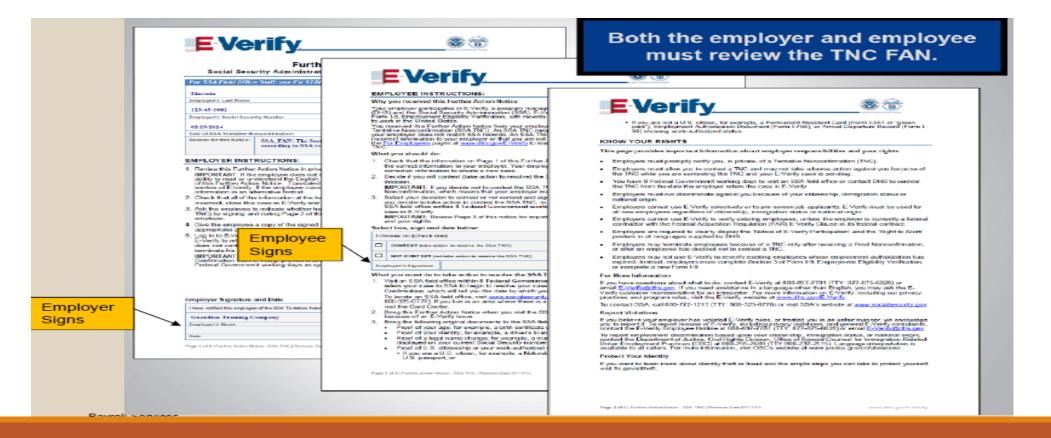
# E-Verify Overview Tentative Non Confirmation

Processing TNC for Social Security non Validation



## **E-Verify TNC Step One**

Meet with Employee to Review Forms



## **E-Verify TNC Step Two**

Employee decides to contest or not to contest:

- Review I-9 with employee to confirm all data is correct.
- Employee call E-Verify, 888-897-7781, to discuss issue. Majority of calls will immediately resolve outstanding issue over the phone.
- Departments must sign and date Page 1 of TNC form and employee selects to contest or not contest and then sign page 2.
- Department returns copy of signed form back to payroll for processing.

## E-Verify – TNC Step Three

Referral to SSA or DHS

The referral date confirmation reflects the date the employer referred the employee to SSA and offers instructions for the employee (employee must take FAN to SSA).

The due date the employee must resolve the TNC also populates.

FAN - Further Action Notice





#### Referral Date Confirmation

Social Security Administration Tentative Nonconfirmation (SSA TNC)

erify Case Verification Number:

2014052114829RU

oloyee Name:

Odigwe, Chidozie

r employer referred your E-Verify case to SSA after you decided to contest (take action to resolve) an Tentative Nonconfirmation (SSA TNC). This document confirms that your case was referred to SSA.

#### at you should do

an SSA field office within 8 Federal Government working days, by 03/05/2014 (MM/DD/YYYY), egin to resolve the SSA TNC. If you have not received the SSA TNC Further Action Notice from your loyer, contact your employer immediately to obtain this notice.

SSA TNC Further Action Notice includes information about your E-Verify case and which documents need when you visit SSA. You must have the SSA TNC Further Action Notice when you visit SSA.

u do not take action within 8 Federal Government working days, by 03/05/2014 (MM/DD/YYYY), a Final Nonconfirmation will be issued and your employer may terminate your employment. Employers must allow you to contest an SSA TNC and may not take adverse action against you because of the SSA TNC while you are contesting the SSA TNC and your E-Verify case is pending.

#### For More Information

If you have questions about what to do, contact E-Verify at 888-897-7781 (TTY: 877-875-6028) or email E-Verify@dhs.gov. If you need assistance in a language other than English, you may ask the E-Verify customer representative for an interpreter. For more information on E-Verify, including our privacy practices and program rules, visit the E-Verify website at <a href="www.dhs.gov/E-Verify">www.dhs.gov/E-Verify</a>.

## E-Verify – TNC Step 3 Continued

I-9 Partner will send department SSA or DHS Referral Date

Confirmation letter which contains employee instructions for next step.

Department must provide this letter to employee.

Employee will take this letter to SSA Office for discussion.



## E-Verify – TNC Step Four

Employee must visit SSA within 8 federal government workdays.

If DHS letter, then employee must contact E-Verify at phone number (888) 897-7781 within 8 federal government workdays.

E-Verify may take up to 15 federal government workdays to respond to a TNC.



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## E-Verify – TNC Step Five

Employer receives updated results

 An E-Verify final case result of "SSA No Show" results when the employee does not visit the SSA office within their allocated time. If "SSA No Show" employee will be terminated from employment.

• An E-Verify final case result of "DHS No Show" results when the employee does not E-Verify within their allocated time. If "DHS No Show" employee will be terminated from employment.



## E-Verify – TNC Step Six

#### **Case Closed**

- I-9 Partner reaches out to the HRSC with status of case and the HRSC completes the process by physically closing case.
- Employer may terminate workers based upon E-verify results. Only upon receipt of a final non confirmation (including a no show), or when an employee has chosen not to contest a TNC.



#### **Results after TNC**

Check E-Verify periodically for one of the following responses:

Employment Authorized	The employee's information matched records available to SSA and/or DHS.
<u>Verification In Process</u>	This case was referred to DHS for further verification.
<u>Case in Continuance</u>	The employee has visited an SSA field office or contacted DHS, but more time is needed to determine a final case result.
<u>Final Nonconfirmation</u>	E-Verify cannot confirm the employee's employment eligibility after the employee visited SSA or contacted DHS.
Close Case and Resubmit	SSA or DHS requires that you close the case and create a new case for this employee. This result may be issued when the employee's U.S. passport, passport card, or driver's license information is incorrect.



## **Guiding Principles for Business Continuity in Workday and on Our Teams**





Focus on incremental improvements, with guidance from our governance council

and Workday bi-annual update releases.

Focus on ensuring continual I-9 process improvements are shared and best practices are followed

### How to Complete Section 1 To Do Task

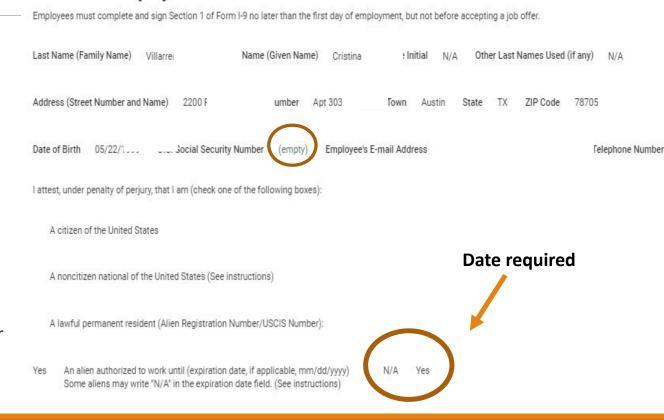
Employee must log into workday and locate the "Complete Form I-9" task from their inbox

Employees who **do not** have a Social Security Number on their first day of employment **must still complete this task** no later than their first day of employment

When an employee chooses their citizenship status this will change the available document options in Section 2

An alien authorized to work in the US **must** include the expiration date of their work authorization as the date they are authorized to work until

#### Section 1. Employee Information and Attestation



## Workday Completing I-9 task – Section 2 "To Do Task"

Acceptable Documents

All documents listed on the I-9's list of acceptable documents can be valid for proving identity

## Not all documents can be used with the E-Verify system

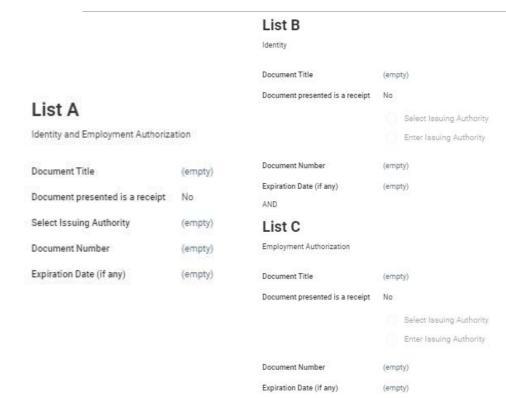
**And** some documents listed come with caveats

#### For Example:

- Voter registration cards <u>cannot</u> be used to complete I-9s that receive authorization through E-Verify
- An employee presenting a foreign passport and I-94 must also provide proof of endorsement (work authorization document naming UT Austin)
- An I-797A can be used as a List C document only if it is presented in conjunction with a valid I-551 stamp in their passport

## Workday – Completing I-9 task – Section 2

#### General Guidance



The I-9 partner should record the employee's document information in the applicable List section (A, B, C)

The employee's first day of employment will always be the start day of their most recent assignment.

 This can be found under "All Jobs" in the employee's Workday profile

If the I-9 task is being completed > 3 days after the employee's first day of employment you will be required to select a reason.

- If you choose "other" as your reason you will be required to write a short note about the reason.
- These notes are sent to the federal government and should be thoughtful and accurate

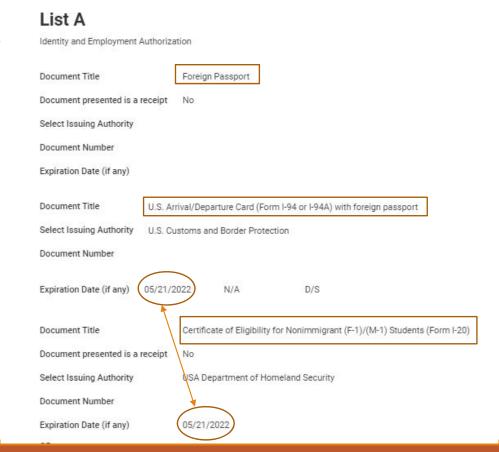
## Workday – Completing I-9 task – Section 2

#### Aliens Authorized to Work

An international employee will generally have one of the following:

- Employment Authorization Document (EAD Card)
  - a) This will be recorded under List A in section
     2 and a scan of the front and back of the
     card must be attached
- Work authorization document: I-20, DS-2019, H1B vis (I-797- A document)
  - The employee will need to provide their passport, I-94, and the above document.
  - All 3 must be recorded in List A

Note: I-797A is not an option in the pull-down for the 3<sup>rd</sup> List A document. Record the document information as one of the available, and make a note in the "Additional information" section of section 2.



## Workday – I-9 Work Authorization Alerts

Troubleshooting (Tips to help you to assist your employee)

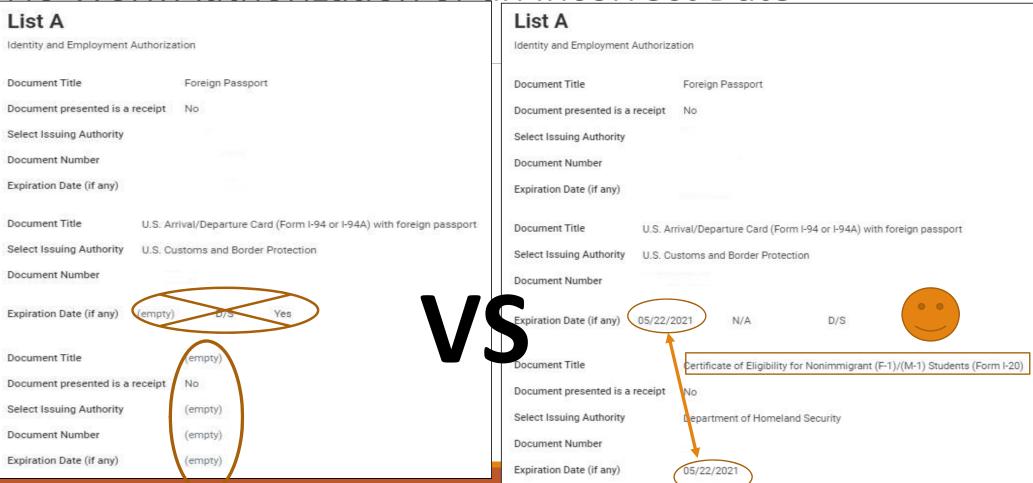
If your employee receives an alert from Workday about their work authorization:

- Check to see if the alert is for expired or soon to be expiring work authorization
- 2. Check the employee's Workday Worker History to see if there is an I-9 on File
- 3. If there is an I-9 task in the Worker History, does it say successfully completed?
- 4. If it shows "Successfully Completed" in the Worker History open the I-9 task to verify it was completed correctly and has a Final US Verification Status of Employment Authorized

I-9s that are completed and have a status of Employment Authorized – Common Errors causing I-9 alerts in Workday

- Employee recorded "D/S" or a past date in section 1 where they attest they are "An alien authorized to work until"
- 2. I-94 document expiration recorded as "D/S," an I-94 that is valid for an employee's "Duration of Stay" should reflect the expiration date of the employee's work authorization document
- 3. Work authorization document is not recorded as the 3<sup>rd</sup> List A document
  - a) The I-20, DS-2019, or I-797A must all be recorded in section 2 as the 3<sup>rd</sup> List A document (following I-94)

What to Do When Employee has:
<a href="No Work Authorization or an Incorrect Date">No Work Authorization or an Incorrect Date</a>



#### **Incorrect Authorization Date Section 1**

#### Section 1. Employee Information and Attestation Section 1. Employee Information and Attestation Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer. Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer. Last Name (Family Name) First Name (Given Name) Other Last Names Used (if any) Valdes Last Name (Family Name) First Name (Given Name) Other Last Names Used (if any) N/A Address (Street Number and Name) Apt. Number City or Town Austin State TX ZIP Code Address (Street Number and Name) Apt. Number State TX ZIP Code 78 City or Town Austin Date of Birth U.S. Social Security Number Employee's E-mail Address Employee U.S. Social Security Number Date of Birth Employee's E-mail Address cv mployee's Telephone Number l attest, under penalty of perjury, that I am (check one of the following boxes): I attest, under penalty of perjury, that I am (check one of the following boxes): A citizen of the United States A citizen of the United States A noncitizen national of the United States (See instructions) A noncitizen national of the United States (See instructions) A lawful permanent resident (Alien Registration Number/USCIS Number): A lawful permanent resident (Alien Registration Number/USCIS Number): An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) 08/08/2020 N/A An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) N/A Yes

Some aliens may write "N/A" in the expiration date field. (See instructions

Some aliens may write "N/A" in the expiration date field. (See instructions)

## Workday – I-9 Work Authorization Alerts

#### Troubleshooting, I-9 status meanings

#### These are finalizations that cannot be changed

<u>Employment Authorized</u> – employment has been authorized through E-Verify

<u>Verification NOT determined</u> – employee's work status cannot be determined, a new I-9 must be completed to authorize employment

#### <u>Employment NOT Authorized</u> – employment must be terminated

When an I-9 is initially completed the status should update with "Employment Authorized" or "Employment NOT Authorized" within 1 minute of submission

Refresh your page to see the updated status

#### Example of What an I-9 Partner Should Look for in Workday:





## Workday – I-9 Work Authorization Alerts

#### Troubleshooting, I-9 status meanings



#### Finalizations needing to be updated by the HRSC

- Awaiting E-Verify Submission
- > Returned for E-Verify Data Review
- > In document review
- Pending Finalization
- > Authorization Pending



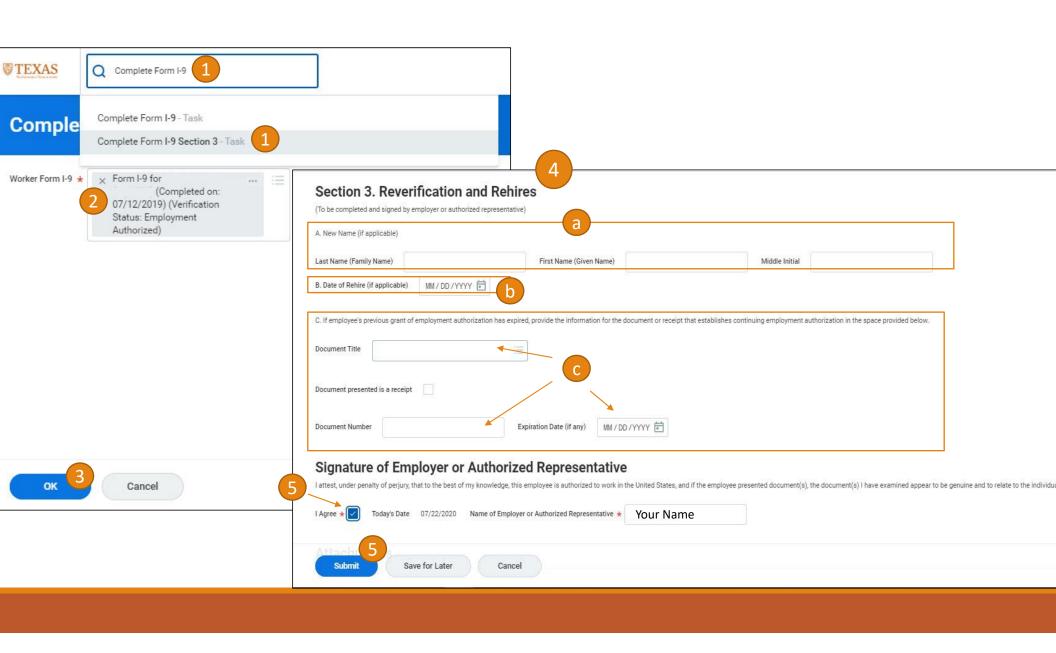
The above finalizations can be seen on an I-9 alone, or with others listed, and can all refer to different I-9 situations.

If your I-9 results in one of these statuses (after waiting 1 minute and refreshing your page) you need to contact the HRSC about the status of the I-9

# Workday Steps For Completing I-9 task — Section 3

#### Section 3 updates can only be launched for an I-9 task that has a status of: Employment Authorized

- 1. Search "Complete Form I-9 Section 3" select appropriate task
- 2. "Worker Form I-9" = Employee's name from Workday profile, hit enter
  - a) If the employee has an I-9 with a status of Employment Authorized this task with auto-populate in the field
  - b) If the employee has more than one I-9 with this status you must select the correct task based on the completion date
- 3. Select "OK" at the bottom of the screen, the section 3 task will automatically open for you to complete
- 4. Scroll down to complete the section 3 update
  - a) If the employee changed there name, you record the new name
  - b) If the employee is a rehire, record the date of rehire
  - c) If the employee is updating expired documents record the document title, number, and expiration date
- 5. Check the "I agree" box, Workday will auto-sign the section for you, submit



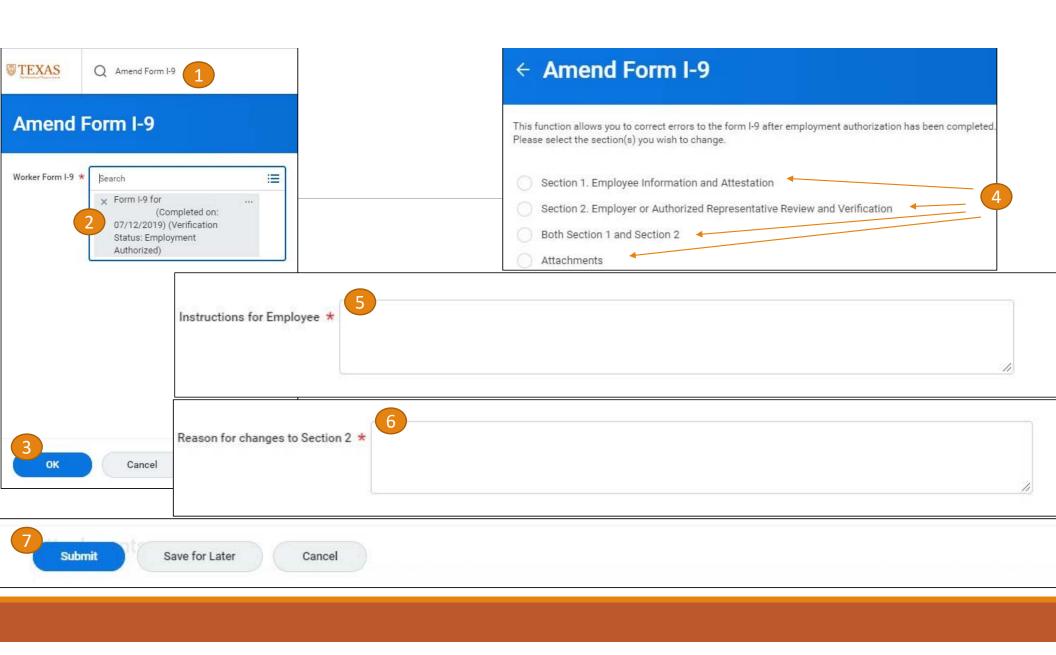
# UT Workday Process be used to update an employee's work authorization expiration date How to Perform the Amend I-9 Task

Amend Form I-9 tasks can only be launched for an I-9 task that has a status of Employment Authorized

- 1. Search "Amend Form I-9" select appropriate task
- 2. "Worker Form I-9" = Employee's name from Workday profile, hit enter
  - a) If the employee has an I-9 with a status of Employment Authorized this task with auto-populate in the field
  - b) If the employee has more than one I-9 with this status you must select the correct task based on the completion date

Amend Form I-9 tasks should never

- 3. Select "OK" at the bottom of the screen, the Amend task will automatically open for you to complete
- Select which section of the I-9 is being amended
  - a) Attachments must be amended separately from section 1 and 2
- 5. If needing employee to amend section 1, write a detailed description in the required instruction box
- If making corrections to section 2 or attachments, correct the information and write a detailed note of the corrections made in the required description box
- 7. Submit



## Workday – Attachments

Per the US Customs and Immigration Status Guidelines:

"If you choose to copy or scan documents an employee presents when completing Form I-9, you must retain the copies with their Form I-9 or their employee record. If you are enrolled in <a href="E-Verify">E-Verify</a>, you must copy the following List A documents used as part of photo matching:

U.S. passport;

U.S. passport card;

Form I-551, Permanent Resident Card; and

Form I-766, Employment Authorization Document (EAD)."

"If you choose to retain copies of an employee's documents for reasons unrelated to E-Verify requirements, you must do so for all employees, regardless of actual or perceived national origin or citizenship status, or you may violate anti-discrimination laws."

Only scans of the E-Verify required documents should be attached to an employee's I-9 task.

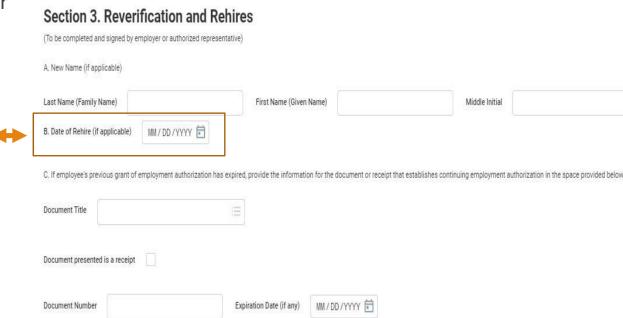
Any other documents attached to the I-9 may open UT Austin to prosecution under anti-discrimination laws.

## Previous Employees – Who needs a new I-9?

US citizens with a break in service > 1 year, or with an I-9 completed more than 3 years = **New I-9 task** 

US citizens with a break in service < 1 year, with a valid I-9 completed within the last 3 years = **Section 3 update** 

Non-US citizens with any break in service require a new I-9



#### Post-test

1. An employee who does not have a social security is not allowed to work without completing a Form I-9: False a. True 2. Employees who are working 0% effort will not need a Form I-9?. a. True False 3. All University of Texas at Austin student employees are exempt from completing a Form I-9. a. True False 4. The law requires that employees complete the Form I-9 on their first day of work. a. True False 5. If an employee is living outside of the United States and working for U.T. Austin do they need to complete an I-9 during their initial onboarding? a. True False 6. Employees who have an expired work authorization are allowed to remain working for U.T. (Under "normal" non-pandemic circumstances)? a. True False 7. One of my documents are expired, can I still use it to verify my employment? False a. True



# Thank You For Attending!