

Form I-9 and Employment Eligibility Verification Policy

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§ 1. Policy

The federal Immigration Reform and Control Act (IRCA) amended the Immigration and Nationality Act by making it unlawful to hire, recruit or refer for a fee any individual who is not authorized to accept employment in the United States. This law seeks to preserve jobs for those who are legally entitled to them, and states that the employer must hire only United States citizens or noncitizens (aliens) who are authorized to work in the United States. Additionally, under the State Human Resources Act, all North Carolina State agencies, departments, and institutions ¹ shall verify, in accordance with the E-Verify Program, each individual’s legal status or authorization to work in the United States, after hiring the individual to work in the United States.²

¹ This policy applies only to executive branch agencies in the Workday system. It does not apply to The University of North Carolina or agencies not utilizing the Workday system. It does not apply to Administrative Office of the Courts. Employers not covered by this policy are still required to utilize E-Verify.

² N.C.G.S. § 126A-6-2.

§ 2. Work Authorization

§ 2.1 Form I-9, Employment Eligibility Verification

To ensure compliance with its provisions, IRCA mandates that employers certify the employment eligibility of all new employees (including United States citizens) hired on or after November 7, 1986, by requiring completion of the employment eligibility verification form, Form I-9 Section 1, by the first day of work for pay and Form I-9 Section 2 within three days of employment. All executive branch agencies utilizing the Workday system must complete the Form I-9 process through onboarding in Workday. Agencies utilizing the Workday system must not complete a paper Form I-9 or use an agency specific E-Verify account for work authorization verification. Verification of employment eligibility is not required for persons hired on or before November 6, 1986, who have been continuously employed by the same North Carolina agency since that date.

If a current State employee with an executive branch agency that uses Workday accepts a position in a different executive branch agency that uses Workday, this is not considered a new hire and their employment eligibility should not be confirmed by the completion of a new Form I-9 or new E-Verify case.³ For employees transferring between agencies that were hired by the sending agency after the implementation of the Workday system, the employee's I-9 documents and employment authorization are maintained as part of the employee's profile and will stay part of their profile when they transfer.

Note: If an employee is transferring from The University of North Carolina, Administrative Office of the Courts or other state entity that does not use Workday for onboarding, they should be treated as a new hire and a new Form I-9 and E-Verify case should be completed.

For employees transferring between agencies using Workday that were hired by the sending agency prior to the implementation of the Workday system, agencies must obtain the existing Form I-9 and E-Verify information from the employee's prior agency.

- The receiving agency must obtain all documents, including the Form I-9, copies of the eligibility documents, and the E-Verify confirmation, from the sending agency including the paper copy of the I-9 documents, if any. The employee's I-9 documentation should be maintained in the same manner the agency maintains all paper I-9 documentation that is not in the Workday system
- The sending agency should provide this information to the receiving agency no later than the employee's first day of work with the receiving agency.
- The sending agency must submit the documents to the receiving agency using the Workday "Worker Documents" feature and using the I-9 Documents Category when uploading the documents when approving the transfer action in Workday.
- The receiving agency must also upload a memo using the "Worker Documents" feature and using the I-9 Documents Category. The memo should state the name of the employee and the date they transferred to the receiving agency. For example, "On November 2,

³ Transfers from NC Ports within the Department of Transportation will require completion of a new Form I-9 and E-Verify case.

2025, John Doe transferred to Department of Administration from the Department of Commerce.”

This procedure must be consistently followed for every employee for whom verification of employment eligibility is required.

§ 2.2 Document Examination

With Workday, the default method of verifying an employee’s Form I-9 documentation is remotely examining the documents that an employee supplies, along with the Form I-9, to verify the identity and authorization of an employee to work in the United States.

Agencies utilizing the Workday system must offer remote verification to new employees. However, employees are not obligated to participate in remote verification and may choose to present their documents for physical examination. Employees performing I-9 verification functions in Workday should follow the Workday I-9 and E-Verify Reference Guide.

The employee must complete Section 1 of Form I-9 no later than the first day of work for pay in Workday. For remote examination, the employee must upload to Workday front and back copies of documents (if the document is two-sided) to be examined remotely prior to the live video interaction. An employer representative must examine copies (front and back, if the document is two-sided) of Form I-9 documents or an acceptable receipt to ensure that the documentation presented reasonably appears to be genuine and relates to the employee. If the employee chooses not to participate in remote verification by uploading documents into Workday, the employee must present the required documentation on the first day of work for pay. The employer representative will upload the documents into Workday.

For remote examination, the employer representative must conduct a live video interaction with the individual presenting the document(s) to ensure that the documentation reasonably appears to be genuine and relates to the individual. The employee must present the same document(s) during the live video interaction that were uploaded to Workday prior to the video interaction.

The employer representative must complete Section 2 of the Form I-9. This step must occur within three business days of the first day of work for pay.⁴

The agency must retain a clear and legible copy of the documentation (front and back if the documentation is two-sided) for as long as the employee works for the agency, plus the specified period after their employment has ended. Refer to Section 6.2 of this policy for retention requirements.

You can find additional information about remote examination of documents at <https://www.uscis.gov/I-9-central/remote-examination-of-documents>.

§ 3. E-Verify Program-Employment Authorization Confirmation

In addition to the I-9 process, electronic verification using the E-Verify Program is required for every newly hired employee who began work in an agency/university on or after January 1, 2007, except in the case of Local Education Agencies (LEAs). Verification by the E-Verify Program is required for all LEA employees who were newly hired on or after March 1, 2007.

⁴ This means if your employee begins work for pay on Monday, you must complete Section 2 by Thursday of that week.

This program is only to be used to determine the employment eligibility of newly hired employees. Attempting to verify the employment eligibility status of a person who was employed by the State before January 1, 2007 is strictly prohibited. Verification of an employee's eligibility to work in the United States through the E-Verify system should be completed after receipt and examination of the Form I-9 and associated documents, but within three business days of the employee's first day of work for pay.

After a case is submitted to E-Verify, the employee's record in Workday will indicate the status of the case of either "Employment Authorized," "Tentative Non-Confirmation," or "Verification in Process." Employers may not terminate, suspend, delay training, withhold or lower pay, or take any other adverse action against an employee because of a "Verification in Process" or "Tentative Non-Confirmation" result. Please refer to Workday training materials, the E-Verify website (www.e-verify.gov) or the E-Verify User Manual (available at www.e-verify.gov/e-verify-user-manual) for detailed information on steps the employer must take when a "Verification in Process" or "Tentative Non-Confirmation" result is received.

All executive branch agencies utilizing the Workday system shall operate under a single Department of Homeland Security Memorandum of Understanding (MOU). Agency staff do not have direct access to the single statewide E-Verify account through the E-Verify website. The Office of State Human Resources serves as the Program Administrator of the statewide E-Verify account. New E-Verify cases shall be processed via integration with E-Verify through the Workday system upon completion of Form I-9 in Workday. If a situation arises that cannot be addressed through the Workday system, the agency's I-9 representative must contact the OSHR E-Verify Program Administrator. Agency staff shall not use prior agency specific E-Verify accounts for Form I-9s which have Section 1 completed on or after the Workday system went live on October 8, 2025. Agency staff shall use the Workday system and the new MOU for all employees who complete Section 1 of Form I-9 on or after that date.

§ 4. Timeframe to Verify Eligibility

An agency may not request documentation that a person is eligible to work in the United States until an offer of employment is made and accepted by the candidate. For that reason, an employing agency must secure proper administrative approvals and must complete all pre-employment screening before an offer of employment is made.

For a United States citizen or permanent resident, if documentation is unavailable at the time of initial employment, and the employee has applied for that documentation, a receipt for that application is required, within the first three days of employment, for completion of the Form I-9. The employee must produce the original document within 90 days of hire. The E-Verify verification may be delayed until the employee submits the original documents.

Failure to complete the Form I-9 or to provide documentation within three business days will result in the employee's separation from State employment.

§ 5. Continuing Employment (Employees Not Considered “Newly Hired”)

Employers must complete a new Form I-9 when a “hire”⁵ takes place. A “hire” has not taken place if the individual is continuing in their employment and has a reasonable expectation of employment at all times.

A “hire” **does not include**:

- An employee transferring directly from one executive branch agency using Workday to another executive branch agency using Workday;
- an employee returning from a paid or unpaid leave approved by the employer;
- an employee who has been promoted, demoted, reassigned, or received a horizontal transfer, but has not changed agencies/universities;
- an employee returning from a reduction-in-force if returning to the same agency/university and there has not been a break in service;
- an employee returning after a wrongful discharge with a record reflecting no break in service.

§ 6. Storage and Retention of Documentation

§ 6.1 Storage of Documents

Employers may use a paper system, an electronic system, or a combination of paper and electronic systems to store Form I-9 and associated documents. Paper copies of the documents presented by employees may be stored with the employee’s Form I-9 or with the employees’ records. However, USCIS recommends that employers keep Form I-9 separate from personnel records to facilitate an inspection request. Any Form I-9 and E-Verify case processed through Workday should be stored only in Workday.

Both physical and electronic I-9 verification folders contain sensitive personal information. This information must be safeguarded.

Paper documents should be, at minimum:

- stored in locked filing cabinets, and
- have access limited to employees who complete Form I-9s or E-Verify cases, and other employees who are authorized to have access to employee personnel records.

An electronic storage system must:

- Include controls to ensure the protection, integrity, accuracy and reliability of the electronic generation storage system;
- Include controls to detect and prevent the unauthorized or accidental creation of, addition to, alteration of, deletion of or deterioration of an electronically completed stored Form I-9, including the electronic signature, if used;
- Include controls to ensure an audit trail so that any alteration or change to the form since its creation is electronically stored and can be accessed by an appropriate government agency inspecting the forms;

⁵ Additional information regarding a “hire,” per USCIS, versus continuing employment may be found at <https://www.uscis.gov/i-9-central/complete-correct-form-i-9/continuing-employment>.

- Include an inspection and quality assurance program that regularly evaluates the electronic generation or storage system, and includes periodic checks of electronically stored Form I-9, including the electronic signature, if used;
- Include a detailed index of all data so that any record can be accessed immediately; and
- Produce a high degree of legibility and readability when displayed on a video display terminal or reproduced on paper.⁶

HR staff should confer with your Chief Information Officer, Chief Information Security Officer or delegated authority on the best way to ensure any electronic storage of Form I-9s and associated documents meets these requirements.

§ 6.2 Retention of Documents

Agencies are required to retain Form I-9s for the duration of a person's employment. If a person separates (not including transfers between executive branch agencies utilizing Workday) from an agency or university, the form must be kept on file for at least three years after the person's start date, or for one year after the separation date, whichever is later. Confirmations that new employees have been verified as eligible to be employed through E-Verify should be attached to Form I-9s, confirmation noted on the Form I-9, or maintained within the Workday system; and maintained for the same length of time as the Form I-9.

Form I-9 and associated documents for employees transferring between Workday agencies should transfer with the employee, rather than being retained by the sending agency. Form I-9 and associated documents for employees separating to work at a non-Workday entity must be retained by the agency for the required amount of time.

Note: If utilizing a paper-based storage system, documents used to establish work authorization should be photocopied and stapled to the original Form I-9. If utilizing an electronic storage system, these documents should be scanned and added to the employee's Employment Verification folder.

Proof of legal employment eligibility in the United States must be maintained throughout an employee's tenure with the employer. Therefore, State agencies, departments, and institutions must remain cognizant of the fact that certain employees may only be legally eligible to work in the United States for limited periods of time. If an employee's legal employment eligibility is temporary, it is the employer's responsibility to verify that the employee renews their employment eligibility or separate that person from employment upon expiration of the temporary eligibility period.

Agencies must review the Status Change report within the agency E-Verify account to monitor employment eligibility for employees hired prior to the implementation of Workday. OSHR reviews the Status Change report for the statewide E-Verify account and will notify agencies of actionable results for employees hired after the implementation of Workday.

§ 7. Reverification

Reverification of an employee's eligibility to work in the United States should only be conducted on those employees who attested in Section 1 of the Form I-9 that they are noncitizens

⁶ [Retention and Storage | USCIS](https://www.uscis.gov/i-9-central/complete-correct-form-i-9/retention-and-storage), www.uscis.gov/i-9-central/complete-correct-form-i-9/retention-and-storage

authorized to work in the United States for a limited period of time. Reverifications are not required, and are not permitted to be completed, on United States Citizen and Lawful Permanent Resident employees. The E-Verify Program is not to be used for reverification purposes. Thus, reverification of employment eligibility only involves the physical examination of employment eligibility documents, not the electronic verification of those documents. If the employee's documents are reverified electronically, the agency will be in violation of the Memorandum of Understanding, which details the E-Verify Program obligations, as required by the United States DHS. For agencies utilizing the Workday system, documents required for reverification must be completed in Workday.

§ 8. Sources of Authority

- [N.C.G.S. § 126A-6-1; 126A-6-2](#)
- [8 U.S.C. § 1324a](#), Immigration Reform and Control Act
- [25 NCAC 01H .0636](#),

Note: History moved to separate document.