

New I-9 Handbook for Employers (revised 1-5-2011)

On January 12, 2011, U.S. Citizenship and Immigration Services (USCIS) released a new version of its "[Handbook for Employers M-274 \(Rev. 01/05/11\)](#)," the official reference guide for employers conducting the employment eligibility process and completing Forms I-9. It replaces the previous edition which has been in effect since April 2009. Listed below are some of the most important changes that may affect the way you manage the I-9 compliance.

- The Handbook clarifies the timing for completion of Form I-9. Employee should complete Section 1 of Form I-9 by his or her first day of work for pay. This can be at any time between acceptance of a job offer and the first day of work for pay. Employer must review the employee's document(s) and fully complete Section 2 of Form I-9 within three business days of the first day of work for pay. For example, if the employee begins work on Monday, you must complete Section 2 by Thursday. Refer to [Part Two, Completing Form I-9, page 3](#).
- The Temporary Employment Authorization table (which previously described the various combination of documents which can be accepted for certain foreign national employees) has been removed in favor of a more descriptive narrative for each of the following: refugees and asylees; employees in temporary protected status (TPS); exchange visitors and students (F,J,& M); H-1B professionals; and H-2A agricultural workers.
- The handbook now includes detailed illustrations on how to complete Section 2 for exchange visitors and students (F, J and M). In essence USCIS now requires additional information to be recorded such as the DS-2019 and I-20 numbers for certain foreign nationals. [Refer to Part Two, Completing Form I-9, Exchange Visitors and Students, page 11](#). Listed below are documents that would establish identity and employment authorization for Form I-9 purposes.
 - a. J1 exchange visitors and students - unexpired foreign passport, along with the I-94/I-94A and DS-2019. Information from these documents would be recorded under List A, Section 2. [Refer to Part Two, Completing Form I-9, page 12](#).
 - b. F1 students who are pursuing academic studies - unexpired foreign passport in combination with Form I-94/I-94A. **Note: Most foreign students at Kansas State University would fall in this category.**
 - c. F1 students on Curricular Practical Training (CPT) - unexpired foreign passport, Form I-20 with designated school official's endorsement for employment on page 3 and a valid I-94/I-94A. Information from these documents would be recorded under List A, Section 2. [Refer to Part Two, Completing Form I-9, page 14, Figure 5](#).
 - d. F1 students on Optional Practical Training (OPT) - Employment Authorization Document (Form I-766). The information from this document would be recorded under List A, Section 2. [Refer to Part Two, Completing Form I-9, page 15, Figure 6](#).

- H-1B portability procedures streamlined. [Refer to Part Two, Completing Form I-9, H-1B Specialty Occupations, page 16-17.](#) The new guidance provides simplified procedures for verifying the employment eligibility of H-1B foreign nationals who have “ported” to new employment under the American Competitiveness in the Twenty-First Century Act (AC-21). When an H-1B worker “ports” to new employment, acceptable List A documents are the employee’s unexpired passport and the Form I-94 arrival-departure record for his or her previous job. In addition the employer must write “AC-21” and the date that the Form I-129 nonimmigrant worker petition was submitted to USCIS in the margin of the form next to Section 2. This change no longer requires a receipt notice and will hopefully speed up the process of the employee’s start date.

To accommodate this change when the Work Permit is issued by the International Scholar and Student Services (ISSS) the Form I-129 date will be noted on the work permit for you to enter under List A, Section 2 of the Form I-9.

H-1B’s requesting extension of stay – the verification procedures have not changed for these employees. The person still needs to request a timely extension of stay before his or her current H-1B status expires, but USCIS advises employers to keep a copy of the Form I-129 extension petition, proof of payment of the filing fee and evidence of the mailing of the petition as part of the I-9 documentation. At this time our office is not going to request this information as this is currently kept by the ISSS.

Additional Form I-9 requirement reminders

- Current version of the Form I-9, Employment Eligibility Verification can be found on the HRIS website. <http://www.k-state.edu/hr/forms/I-9.pdf>
- Under Section 2, if the employee provides valid documents under lists B & C, there should be no documents under List A. The same holds true for the reverse scenario. If there is a document listed under List A, you should not have documents listed under B & C.
- For rehires with a break in service of more than 30 days, Section 3 of Form I-9 needs to be completed. This applies to any employee being rehired after a 30 day break – even those retirees who are being rehired and were previously employed with the university for many years. If there is a Form I-9 on file within the last three years for the employee, Section 3 of the form should be completed. If a Form I-9 has not been completed within the last three years, a new one must be submitted to HR with the rehire transaction.
- For work permit renewals on foreign employees, a Form I-9 is required. In addition, we encourage you to run the “Work Permit Expiration” report. This report provides you with a list of foreign employees whose work permits will be expiring. Instructions: <http://www.k-state.edu/hr/hris/WorkPermitExpirationrpt.pdf>

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