Date: March 04, 2009
To: CSU Presidents
From: Gail E. Brooks
Vice Chancellor
Human Resources

Subject: Revised Employment Eligibility Verification Form I-9

Overview

Audience: Campus designees responsible for new employee employment eligibility verification process.


Affected Employee Groups/Units: Newly hired employees.

Summary

Employers must complete Form I-9 for all newly hired employees to verify their identity and authorization to work in the United States. The United States Citizenship and Immigration Services, Department of Homeland Security, published an interim final rule “Documents Acceptable for Employment Verification” on December 17, 2008. The rule streamlines the Employment Eligibility Verification (Form I-9) process. April 3, 2009 is the new effective date to implement the interim final rule. A copy of the revised Form I-9 is provided as Attachment A.

Campus designees responsible for new employee employment eligibility verification process should review the remainder of this HR letter for more detailed information about compliance.

United States Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS) issued an interim rule amending the regulations governing the types of acceptable identity and employment authorization documents and receipts that employees may present to their employers when completing Form I-9, Employment Eligibility Verification. Implementation of the interim final rule was extended to April 3, 2009 to allow the public additional time to submit comment on the substantive legal and policy issues (until March 4, 2009), and to also provide DHS officials the opportunity for further review and consideration of the interim final rule. Under the interim final rule, employers will no longer be able to accept expired documents in connection with the Form I-9 process. A document containing no expiration date, such as the social security account number card, will

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be deemed unexpired. The rule also adds a new document to the list of acceptable documents that evidence both identity and employment authorization and makes several technical corrections and updates.

Form I-9 Changes
USCIS has revised the Form I-9 by making changes to the List of Acceptable Documents and Receipts and minor technical and form changes as noted below:

- Documents that were previously issued and have expired: the following three (3) forms have been removed from List A of the List of Acceptable Documents:
  - Temporary Resident Card (Form I-688)
  - Employment Authorization Card (Form I-668A)
  - Employment Authorization Card (Form I-688B)

- Other changes to List A of the List of Acceptable Documents:
  - Reference to the new United States Passport Card was added.
  - Reference to Form I-94A was added. (Form I-94A is nearly identical to the Form I-94 except that all fields are computer-generated rather than being annotated by hand.)
  - Reference to Temporary I-551 stamps was revised to incorporate a temporary pre-printed I-551 notation on machine-readable immigrant visas (MRIVs) was added.
  - A provision for Federated States of Micronesia (FSM) or Republic of Marshall Islands (RMI) citizens was added.

- Changes to List C of the List of Acceptable Documents:
  - Reference to “social security number card” was replaced with “social security account number card” to track the statutory language.

- Technical Changes:
  - Replaces the term “employment eligibility” with “employment authorization” in each place that “employment eligibility” appears in the verification provisions of the regulations relevant to the substantive changes made by this rule, 8 CFR 274a.2(a) and (b)(1).
  - Revises the section heading to 8 CFR 274a.2 to more accurately reflect the contents of this section, to read “Verification of identity and employment authorization.”
  - Deletes references to the former INS or replaces such references with “DHS” wherever “INS” appears in the provisions affected by this rule.
  - Corrects List C title references to Forms FS-545 and DS-1350.

- Form Changes:
  - Section I revision includes changing “citizen of the United States” and “noncitizen national of the United States” into two separate categories in the employee attestation part of the form to eliminate one difficulty that currently exists when prosecuting those who make false claims to U.S. citizenship.
  - Section I revision includes replacing “An Alien authorized to work until ___/__/___ (Alien# or Admission_______) with “An Alien authorized to work (A# or Admission#__________) until (expiration date, if applicable – month/day/year) ___/__/___.”
  - Form instructions revisions including a paragraph that clarifies when employers need to re-verify certain employees.

The revised Form I-9, and USCIS Handbook for Employers (Form M-274), may be accessed at the following Website: www.uscis.gov. As a reminder, campuses must begin using the new form April 3, 2009.
**Contact Information**

Questions regarding the employment eligibility verification procedure should be addressed to Ms. Patty Bartscher, University Counsel, Office of General Counsel at (415) 338-2998 or via email at: bartscher@sfsu.edu.

General questions regarding this memorandum may be directed to Human Resources Administration at (562) 951-4411. This document is also available on the Human Resources Administration Website at: [http://www.calstate.edu/HRAdm/memos.shtml](http://www.calstate.edu/HRAdm/memos.shtml).

Attachment

GEB/CH:pc/th
Instructions
Read all instructions carefully before completing this form.

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the United States) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents presented have a future expiration date may also constitute illegal discrimination. For more information, call the Office of Special Counsel for Immigration Related Unfair Employment Practices at 1-800-255-8155.

What Is the Purpose of This Form?
The purpose of this form is to document that each new employee (both citizen and noncitizen) hired after November 6, 1986, is authorized to work in the United States.

When Should Form I-9 Be Used?
All employees, citizens, and noncitizens hired after November 6, 1986, and working in the United States must complete Form I-9.

Filling Out Form I-9

Section 1, Employee
This part of the form must be completed no later than the time of hire, which is the actual beginning of employment. Providing the Social Security Number is voluntary, except for employees hired by employers participating in the USCIS Electronic Employment Eligibility Verification Program (E-Verify). The employer is responsible for ensuring that Section 1 is timely and properly completed.

Noncitizen Nationals of the United States
Noncitizen nationals of the United States are persons born in American Samoa, certain former citizens of the former Trust Territory of the Pacific Islands, and certain children of noncitizen nationals born abroad.

Employers should note the work authorization expiration date (if any) shown in Section 1. For employees who indicate an employment authorization expiration date in Section 1, employers are required to reverify employment authorization for employment on or before the date shown. Note that some employees may leave the expiration date blank if they are aliens whose work authorization does not expire (e.g., asylees, refugees, certain citizens of the Federated States of Micronesia or the Republic of the Marshall Islands). For such employees, reverification does not apply unless they choose to present in Section 2 evidence of employment authorization that contains an expiration date (e.g., Employment Authorization Document (Form I-766)).

Preparer/Translator Certification
The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his or her own. However, the employee must still sign Section 1 personally.

Section 2, Employer
For the purpose of completing this form, the term "employer" means all employers including those recruiters and referrers for a fee who are agricultural associations, agricultural employers, or farm labor contractors. Employers must complete Section 2 by examining evidence of identity and employment authorization within three business days of the date employment begins. However, if an employer hires an individual for less than three business days, Section 2 must be completed at the time employment begins. Employers cannot specify which document(s) listed on the last page of Form I-9 employees present to establish identity and employment authorization. Employees may present any List A document OR a combination of a List B and a List C document.

If an employee is unable to present a required document (or documents), the employee must present an acceptable receipt in lieu of a document listed on the last page of this form. Receipts showing that a person has applied for an initial grant of employment authorization, or for renewal of employment authorization, are not acceptable. Employees must present receipts within three business days of the date employment begins and must present valid replacement documents within 90 days or other specified time.

Employers must record in Section 2:

1. Document title;
2. Issuing authority;
3. Document number;
4. Expiration date, if any; and
5. The date employment begins.

Employers must sign and date the certification in Section 2. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. If photocopies are made, they must be made for all new hires. Photocopies may only be used for the verification process and must be retained with Form I-9. Employers are still responsible for completing and retaining Form I-9.
For more detailed information, you may refer to the USCIS Handbook for Employers (Form M-274). You may obtain the handbook using the contact information found under the header "USCIS Forms and Information."

Section 3, Updating and Reverification

Employers must complete Section 3 when updating and/or reverifying Form I-9. Employers must reverify employment authorization of their employees on or before the work authorization expiration date recorded in Section 1 (if any). Employers CANNOT specify which document(s) they will accept from an employee.

A. If an employee's name has changed at the time this form is being updated/reverified, complete Block A.

B. If an employee is rehired within three years of the date this form was originally completed and the employee is still authorized to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.

C. If an employee is rehired within three years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B; and:

1. Examine any document that reflects the employee is authorized to work in the United States (see List A or C);
2. Record the document title, document number, and expiration date (if any) in Block C; and
3. Complete the signature block.

Note that for reverification purposes, employers have the option of completing a new Form I-9 instead of completing Section 3.

What Is the Filing Fee?

There is no associated filing fee for completing Form I-9. This form is not filed with USCIS or any government agency. Form I-9 must be retained by the employer and made available for inspection by U.S. Government officials as specified in the Privacy Act Notice below.

USCIS Forms and Information

To order USCIS forms, you can download them from our website at www.uscis.gov/forms or call our toll-free number at 1-800-870-3676. You can obtain information about Form I-9 from our website at www.uscis.gov or by calling 1-888-464-4218.

Information about E-Verify, a free and voluntary program that allows participating employers to electronically verify the employment eligibility of their newly hired employees, can be obtained from our website at www.uscis.gov/e-verify or by calling 1-888-464-4218.

General information on immigration laws, regulations, and procedures can be obtained by telephoning our National Customer Service Center at 1-800-375-5283 or visiting our Internet website at www.uscis.gov.

Photocopying and Retaining Form I-9

A blank Form I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed Form I-9s for three years after the date of hire or one year after the date employment ends, whichever is later.

Form I-9 may be signed and retained electronically, as authorized in Department of Homeland Security regulations at 8 CFR 274a.2.

Privacy Act Notice

The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by authorized officials of the Department of Homeland Security, Department of Labor, and Office of Special Counsel for Immigration-Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed. Since employers are subject to civil or criminal penalties if they fail to comply with the Immigration Reform and Control Act of 1986.
Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 12 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529-2210. OMB No. 1615-0047. Do not mail your completed Form I-9 to this address.
Department of Homeland Security
U.S. Citizenship and Immigration Services

Read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification (To be completed and signed by employee at the time employment begins)

<table>
<thead>
<tr>
<th>Print Name</th>
<th>Last Name</th>
<th>First Name</th>
<th>Middle Initial</th>
<th>Maiden Name</th>
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<thead>
<tr>
<th>Address (Street Name and Number)</th>
<th>Apt. #</th>
<th>Date of Birth (month day year)</th>
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<tr>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
<th>Social Security #</th>
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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):

- A citizen of the United States
- A noncitizen national of the United States (see instructions)
- A lawful permanent resident (Alien #)
- An alien authorized to work (Alien # or Admission #)

until (expiration date, if applicable - month day year)

Employee’s Signature

Preparer and/or Translator Certification (To be completed and signed if Section 1 is prepared by a person other than the employee. I attest, under penalty of perjury, that I have assisted in the completion of this form. I attest, under penalty of perjury, that to the best of my knowledge the information is true and correct.

Preparer/Translator’s Signature

Date (month day year)

Address (Street Name and Number, City, State, Zip Code)

Print Name

Date (month day year)

Section 2. Employer Review and Verification (To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)

<table>
<thead>
<tr>
<th>List A</th>
<th>OR</th>
<th>List B</th>
<th>AND</th>
<th>List C</th>
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Document title:

Issuing authority:

Document #:

Expiration Date (if any):

Document #:

Expiration Date (if any):

CERTIFICATION: I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month day year) and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative

Print Name

Title

Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)

Date (month day year)

Section 3. Updating and Reverification (To be completed and signed by employer.)

A. New Name (if applicable)

B. Date of Rehire (month day year) (if applicable)

C. If employee’s previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization

Document Title:

Document #:

Expiration Date (if any):

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative

Date (month day year)
# LISTS OF ACCEPTABLE DOCUMENTS

All documents must be unexpired

### LIST A
**Documents that Establish Both Identity and Employment Authorization**

1. U.S. Passport or U.S. Passport Card

2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)

3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa

4. Employment Authorization Document that contains a photograph (Form I-766)

5. In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I-94 or Form I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form

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

### LIST B
**Documents that Establish Identity**

1. 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

2. 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

3. School ID card with a photograph

4. Voter's registration card

5. U.S. Military card or draft record

6. Military dependent's ID card

7. U.S. Coast Guard Merchant Mariner Card

8. Native American tribal document

9. Driver's license issued by a Canadian government authority

10. School record or report card

11. Clinic, doctor, or hospital record

12. Day-care or nursery school record

### LIST C
**Documents that Establish Employment Authorization**

1. Social Security Account Number card other than one that specifies on the face that the issuance of the card does not authorize employment in the United States

2. Certification of Birth Abroad issued by the Department of State (Form FS-545)

3. Certification of Report of Birth issued by the Department of State (Form DS-1350)

4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal

5. Native American tribal document

6. U.S. Citizen ID Card (Form I-197)

7. Identification Card for Use of Resident Citizen in the United States (Form I-179)

8. Employment authorization document issued by the Department of Homeland Security

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Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)