

Immigration and International Trade E-Alert

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I-9 Central Resource for Employers Now Live OPT STEM Fields Expanded 2012 DV Lottery Results Voided

On May 13, 2011, US Citizenship and Immigration Services (USCIS) announced the availability of its new resource for employers regarding the completion of the I-9 form for new hires. Please refer to the announcement at: <http://tinyurl.com/6qoo77z>. I-9 Central will supposedly be updated on a monthly basis and all postings are allegedly cleared by United States Immigration and Customs Enforcement (ICE), USCIS, and the Office of Special Counsel (OSC) of the Department of Justice (DOJ). I-9 Central currently provides more detailed information on acceptable documents for I-9 completion, correcting I-9s, how to complete and I-9, which I-9 forms to use, a retention formula, etc. The Citizenship/Document Matrix under the heading, "Who is Issued This Document?" is an interesting new resource.

Guidance from USCIS regarding the I-9 form is welcome, but some of the information does not necessarily convey what the regulations provide. For example, under the "Inspections" heading, employers are advised that if they refuse or "delay" an inspection of an I-9 by "officials" that they "will be" in violation of law, and yet when a typical I-9 notice of inspection is issued to an employer, they have, by regulation, at least three business days to respond unless subject to a separate I-9 subpoena or warrant. Any reliance by an employer on an I-9 Central posting should be dated and documented in the employer's I-9 compliance file. In addition, if monthly updates are to be provided on I-9 Central, it will be very important for employers to monitor changes in the website. Let's hope they set up a separate subscription for I-9 Central changes. The current posted Q & A on the site provides the following as to self-audits:

Self-Audits

Q. If an employer finds a mistake on previously completed Forms I-9, how should the employer correct the mistake?

A. The employer may draw a line through inaccurate information, write the correct information on Form I-9, initial and date of the correction. The employer should also make a note in the file that a self-audit was completed on that date.

Q. Does the employer need to fill out a new Form I-9 if the employee signs not in the signature box but right above the signature box?

A. No. As long as it is clear that the signature relates to the attestation ("I attest, under penalty of perjury ..."), there is no need to complete a new Form I-9 or correct the placement of the signature.

Q. What should I do if an invalid [version of Form I-9](#) was completed for an employee at the time of hire?

A. If an outdated and invalid version of Form I-9 was completed for an employee at the time of hire, a new Form I-9 using the correction version should be completed and attached to the previously completed Form I-9.

Some other interesting Q & As from I-9 Central.....

Q. Is an unsigned Social Security card valid?

A. Yes. A signature on the card is not required for the card to be valid. You may accept an unsigned Social Security card as long as the card reasonably appears to be genuine and to relate to the person presenting it.

Q. Is a laminated Social Security card valid?

A. It depends. If the card states on the back "not valid if laminated," then the laminated Social Security card is not valid. The [Social Security Administration \(SSA\)](#) advises cardholders not to laminate Social Security cards. Metal or plastic reproductions of Social Security cards are not acceptable for Form I-9 purposes.

Q. Is a Social Security card with the annotation "For Social Security and Tax Purposes Only" valid for employment?

A. Yes. There are currently 50 different versions of the Social Security card, all of which may be valid for employment. Visit the Social Security website to see the [chart](#) that lists the changes in the SSN card through the years.

Cards that are **NOT** acceptable List C documents may include any one of the following annotations:

- NOT VALID FOR EMPLOYMENT.
- VALID FOR WORK ONLY WITH INS AUTHORIZATION.
- VALID FOR WORK ONLY WITH DHS AUTHORIZATION.

Q. Can an employer accept an expired driver's license with a paper document from the state department of motor vehicles (DMV) stating that the paper document serves as a temporary license?

A. Yes. Employers may accept a driver's license that has expired on its face and a DMV-issued document that serves as a temporary license. Together these two documents are an acceptable List B document for Form I-9 purposes.

ICE Expands List of Science, Technology, Engineering, and Math Degree Programs

On May 12, 2011, the U.S. Immigration and Customs Enforcement (ICE) published an expanded list of science, technology, engineering, and math (STEM) degree programs that qualify eligible graduates on F-1 student visas for an extension of the 12 month post-completion Optional Practical Training (OPT) program.

The OPT program allows foreign students who graduate from U.S. colleges and universities to remain in the U.S. and receive training through work experience for up to 12 months after graduation. Students who graduate with a STEM degree can remain in the U.S. for an additional 17 months on an OPT STEM extension, if they are employed by employers enrolled in E-Verify, and their initial grant of post-completion OPT was related to a STEM degree.

The STEM-Designated Degree Program List now includes 50 additional degree programs. By expanding the list of STEM degrees to include such fields as Neuroscience, Food Sciences, Animal Sciences, Video Graphics, Forestry, Environmental, Psychology, Medical Informatics, Pharmaceuticals and Drug Design, Mathematics, and Computer Science, the Obama administration is trying to fill shortages in certain high tech sectors of talented scientists and technology experts with highly skilled foreign graduates.

To view a complete list of STEM-Designated Degree Programs, please visit <http://tinyurl.com/5tohzub>.

2012 DV Lottery Results Voided

The Department of State posted a notice <http://www.dvlottery.state.gov/> last week announcing that the posted results for the lottery were not "valid and posted in error." A new selection process is to be conducted and the results will be posted on or about July 15, 2011. There is no need for new applications to be filed by those, who filed the previously qualified entries during the October 5 to November 3 registration period. The error resulting in the voidance of the selections was apparently due to computer programming. Thus, applicants will have another bite at the apple.

Our immigration compliance group looks forward to assisting you with any questions. Please contact Kathleen Campbell Walker or Lisa Rios with questions. (kwalker@coxsmith.com – lrios@coxsmith.com).

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