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Legal Issues for Nonprofits

## **Form I-9 Required of All Nonprofit Employers**

All U.S. employers are responsible to verify employment eligibility for all employees hired after November 6, 1986. An employer must verify that an employee is authorized to work in the United States within three business days from when the employment begins.

### Form I-9

The Bureau of Citizenship and Immigration Services (formerly the Immigration and Naturalization Service) requires all U.S. employers and employees to fill out its Form I-9, Employment Eligibility Verification Form.

Section 1 of the Form I-9 is to be filled out by the employee and requires documentation authorizing him or her to work in the United States be submitted to the employer. Section 2 of the Form I-9 is to be filled out by the employer and requires that the information and documentation submitted by the employee be reviewed. A list of acceptable documents showing valid work authorization is available from The Bureau of Citizenship and Immigration Services.

If the documents appear to be reasonably genuine and relates to the person presenting them then the employer must accept the documents. If the documents do not appear to be reasonably genuine then the employer must not accept the documents. The documents presented by the employee must be original and not photocopies.

The employer is responsible for ensuring that Section 1 of the Form I-9 is timely and properly completed. If an employee does not provide the documents within three days of starting employment, or fails to provide a receipt for replacement documents if lost, then the employer can terminate the employee. However, this practice must be uniformly enforced.

If an employee provides a receipt for the lost documents within the three business days then he or she must produce the original documents within ninety days of starting employment.

Employers must retain Form I-9 for all non-exempt current employees and allow the forms to be inspected on request by certain government officials. Employers are usually given three days to present the requested forms to government officials. Employers must also retain Form I-9 for certain past employees. This retention will be dependent on when the employment began and finished.

Additional information on this topic, including the penalties for non-compliance, can be found in the Bureau of Citizenship and Immigration Service's Handbook For Employers (Form M-274). Form I-9 can also be obtained directly from the Bureau of Citizenship and Immigration Services.

*This publication is intended to provide general information, and is not a substitute for legal advice. If you have additional questions about this issue, contact Community Legal Resources at 313/962-3171.*

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