

APRIL 2015 ISSUE

5 THINGS FOR EMPLOYERS TO KNOW ABOUT FORM I-9

As an employer, one of your most important responsibilities when hiring a new employee is to properly complete [Form I-9](#). It sounds simple, but it can be easy to make a mistake or get confused as to exactly what is required. Below are five basic points to remember:

1. All Employers Need to Use Form I-9

As a general rule, all U.S. employers must verify the employment eligibility and identity of each employee hired to work in the United States by completing Form I-9 for **every employee**, including U.S. citizens. Employers are not required to complete Forms I-9 for independent contractors. However, it is against the law to contract for the labor of an individual knowing that he or she is not authorized to work in the United States.

2. Newly Hired Employees Must Complete Form I-9 No Later Than First Day of Work

Employers may not begin the Form I-9 process until an individual accepts an offer of employment. Newly hired employees must complete and sign **Section 1** of Form I-9 no later than the first day of work for pay. The employee must present to the employer an original document or documents that show his or her identity and employment authorization within 3 business days of the date employment begins.

3. Employers Must Complete Form I-9 Within Three Business Days of Employee's First Day

An employer must use the documents presented by the employee to complete and sign **Section 2** of Form I-9 within 3 business days of the first day of work for pay. Among other things, employers are required to physically examine each document to determine if it reasonably appears on its face to be genuine and to relate to the employee presenting it. If a document does not satisfy these criteria, the employer should reject it and allow the employee to present other acceptable documentation.



4. Form I-9 Must Be Kept for a Certain Amount of Time After an Employee Leaves

Employers must keep an employee's completed Form I-9 for as long as the individual works for the employer. Once the individual's employment has terminated, the employer must keep the Form I-9 until the **later** of:

- 3 years after the date of hire, or
- One year after the date employment is terminated.

The forms may be stored on paper or electronically. Keep in mind that Forms I-9 collect personal information about individual employees, so adequate safeguards should be in place to protect that information, regardless of how it is stored.

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5. Not Completing Form I-9 May Lead to Penalties

Hiring employees without complying with the employment eligibility verification requirements is a violation of the law. Employers that fail to properly complete or retain Forms I-9 could be subject to civil money penalties of up to \$1,100 for each violation.

Our [Form I-9](#) section provides additional information, including common questions and answers for employers about the Form I-9 process.

RETALIATION TOPS LIST OF EMPLOYMENT DISCRIMINATION COMPLAINTS

Retaliation, race discrimination, and sex discrimination were the most commonly filed complaints with the [U.S. Equal Employment Opportunity Commission](#) (EEOC) last year. Under the law, it is illegal to fire, demote, harass, or otherwise "retaliate" against an individual for complaining about or filing a charge of discrimination, or for participating in an employment discrimination proceeding (such as an investigation or lawsuit).



In total, the agency received 88,778 private sector workplace discrimination charges during fiscal year 2014 (which runs from October 1 to September 30). The number of charges filed decreased compared with recent fiscal years, due in part to the government shutdown during the reporting period. Termination continued to be the most frequently-cited discriminatory issue, followed by allegations of harassment (for all protected classes except race).

Employment Discrimination Laws Enforced by the EEOC

The laws enforced by the EEOC apply to employers who meet the threshold number of employees for coverage. For example:

- [Title VII of the Civil Rights Act of 1964](#), the [Americans with Disabilities Act](#), and the [Genetic Information Nondiscrimination Act](#) apply to employers who have at least **15 employees** in 20 or more weeks of the calendar year.
- The [Age Discrimination in Employment Act](#) applies to employers with **20 or more employees** in 20 or more weeks of the calendar year.
- The [Equal Pay Act](#) does not require a minimum number of employees for an employer to be covered.

NEW HIRE ONBOARDING CHECKLIST

New employee orientation (also called "onboarding") introduces new employees to the workplace and familiarizes them with some of the company's basic practices.

Onboarding should be conducted as soon after an employee's start date as possible. Some of the topics you may wish to cover include:



- 1. WELCOME.** Give your new employee a brief tour of the workplace and introduce managers and co-workers. Be sure the employee's work station is neat and organized to make him or her feel welcome.
- 2. NEW HIRE PAPERWORK.** Orientation is a good time to collect and complete any necessary paperwork, such as [Form I-9](#) (an employee must complete Section 1 of Form I-9 no later than the first day of work for pay), Form W-4, and any required state income tax withholding forms.
- 3. COMPENSATION AND BENEFITS.** Provide details on pay periods, direct deposit, payroll deductions, health insurance, and any other benefits to which your new employee may be entitled. Prepare a benefits packet ahead of time to give to the employee and let him or her know who can answer questions.

- 4. ATTENDANCE AND LEAVE.** Review the employee's expected hours of work, as well as the company's policies regarding absenteeism, meal and break periods, and time off (including notice required).
- 5. EMPLOYEE CONDUCT.** Make sure the employee understands the rules regarding dress code, telephone and computer use, and other expectations. If your policies are explained in an employee handbook, be sure the employee receives a copy.
- 6. SAFETY AND SECURITY.** Explain necessary safety and security procedures and distribute building keys, employee identification, and parking passes as appropriate.
- 7. REQUIRED TRAINING.** Schedule training sessions as soon as possible so the employee can learn about the technology, safety, and any other special skills necessary to perform his or her job.

Regardless of whether you distribute a full employee handbook, it's a good idea (and in some instances may be legally required) to inform employees in writing of your company's policies. Remember to follow up with your employee during the first several weeks to address any concerns and answer any questions that may come up.

TIPS TO LOWER YOUR RISK OF A GROUP HEALTH PLAN AUDIT

The U.S. Department of Labor (DOL) has been increasing audits of employee welfare benefit plans--including group health plans--sponsored by companies of every size. An audit can happen at any time, so it's important to stay on top of compliance. The checklist below can help you prevent and be prepared for a DOL audit.

- Maintain all documents related to welfare benefit plans in one location.
- Designate one person at the company to take charge of the welfare benefit plans.
- Respond in a timely fashion to all participant and beneficiary questions.
- Review and understand all plan documents.
- Make sure all benefit plans covered by the Employee Retirement Income Security Act (ERISA) comply with relevant laws, such as Health Care Reform and the Health Insurance Portability and Accountability Act (HIPAA).
- Distribute summary plan descriptions (SPDs), with accompanying benefit plan component documents such as benefits booklets and certificates of insurance, to all plan participants within 90 days of becoming covered under the plan.
- Administer all ERISA-covered benefit plans, including group health plans and other welfare plans, in accordance with a written plan document.
- Respond to participant and beneficiary requests for an SPD and plan document within 30 days after a written request.
- Inform participants of any material change to the plan either through a revised SPD or in a separate document, called a summary of material modifications (SMM).
- Distribute required notices, such as COBRA (continuation of health benefits) and SBC (summary of benefits and coverage) notices, within required timeframes.
- If Form 5500 must be filed, be sure to complete all components accurately and file before the required deadline.
- Establish written procedures for disputes and claims resolution.



Please contact a benefitsContinuum team member for more tips for navigating through a DOL health plan audit and a list of documents that are typically requested from employers as part of the process.

RULE CHANGE ALLOWS MORE TIME TO PROVIDE ANNUAL DISCLOSURES TO EMPLOYEES IN 401(K)-TYPE RETIREMENT PLANS

A [new rule](#) issued by the U.S. Employee Benefits Security Administration (EBSA) changes the requirement that annual disclosures for participant-directed individual account plans (e.g., 401(k) plans) be made at least once in any 12-month period to **at least once in any 14-month period**.



The requirement that administrators of 401(k)-type plans disclose annually [certain information about plan investment options](#) to participants and beneficiaries (in addition to disclosing such information on or before the date they can first direct their investments) became effective in 2012. The information that is required to be disclosed, which helps workers make informed plan and investment decisions about their retirement savings, remains unchanged.

The new rule is expected to become effective on June 17, 2015. Until that time, EBSA will treat a plan administrator as satisfying the current "12-month rule" if disclosures are furnished within the new 14-month deadline, **provided that the plan administrator reasonably determines that using the extended deadline will benefit participants and beneficiaries**. This relief is in addition to the "re-set" relief [previously granted](#) by the agency, which allowed a plan to reschedule the timing for the annual distribution of the required investment [comparative chart](#) one time, for either the 2013 or 2014 chart.

NEWSLETTER PROVIDED BY:

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