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1. What do we do in reference to further inquiry when another agency kicks out a social security number as 'already in system'? For example, you accepted I-9 documentation in good faith but when he enrolls in the insurance plan they tell you their database has that assigned number to someone else.

You should ask the employee to get this issue corrected with the social security office. If he confesses to you that he used an invalid number, then you should give him 30 days to obtain a correct one, and if the employee provided this to you for I-9 employment verification purposes, you will need to re-verify the employee's employment eligibility. If the employee is unable to provide you a document from Form I-9's list A, or list B and C, you should take action that is consistent with company's normal employment termination policies.

2. What are some noticeable signs we can use to recognize fake identification? For example, typed social security cards (recently issued), fuzzy print of card itself (copier produced), recently issued pink resident alien cards (new ones aren't pink), cut out picture on employment authorization or resident alien cards, typed fonts used on either, etc.

The employer is not expected to act as an immigration enforcement officer and recognize the difference between fraudulent and authentic I-9 documentation. Further inquiry about a document is warranted, however, if an individual presents to the employer a document which has a different name of the individual, or a different date of birth.

3. I heard that I should not ask specific questions about someone's alien status and I should accept what they give me for face value. As an employer do I have to put their credentials to the test?

No. As an employer, you are required to complete the I-9 verification process for every employee hired after November 6, 1986, to confirm the employee's work eligibility. This process must begin on or before day 1 of employment, and the process must be completed by day 3 of employment. An employer should not complete the I-9 process before an offer of employment has been made, and the employer must engage in the I-9 process in a consistent manner for all new hires. The employer may accept documents either from list A, which evidences both identity and work authorization, or from both list B, which evidences identity, and list C, which evidences work authorization. If the documents appear genuine on their face, you should accept them.

4. If I ask about the validity of an official document am I breaking the law?

If a document does not appear genuine on its face, rather than asking about the validity of the document, you should ask the individual to provide you with another document for I-9 purposes.

5. Are we supposed to offer all company and required documents in Spanish?

While this is not required, it may be advisable if the company has a large Spanish-speaking workforce

6. Where do I go to get all my company documents translated?

Any local translation service would provide this service to the company

7. Do I need someone on staff that speaks Spanish if I have Hispanic employees?

While not a requirement, it may be recommended if the company has a large Spanish-speaking workforce

8. If I find out an employee is illegal, what should I do?

If you find out via a government source or via an employee's direct confession to you, you should discuss with the employee that the company takes the I-9 Employment Verification requirements seriously and that the company is required to verify the work eligibility of each new hire, and if the employee does not have the proper work authorization documents, you have no choice but to take action consistent with company employment termination policies. If a fraudulent document was provided at the time of the I-9 verification process, you should take action consistent with company policy for such a violation. Some companies may choose to give this employee 30 days notice to obtain the proper work documents.

If you discover that the employee is illegal through a rumor or from another individual such as a co-worker, this information does not warrant further inquiry or a request for additional documentation from the employee

** It is recommended to seek legal counsel before terminating the employee*

9. What should my company do in the event that the USCIS or Social Security Administration comes to look at my employee records to see if I have illegal aliens working?

Provide them with copies of the I-9 files only – and keep them separate from the personnel files. Prior to giving them any information or files, tell them that you are entitled to three days notice before review of any documentation. Call immigration counsel and conduct an internal I-9 audit during this three-day period.

10. What should I have on file?

The employer must have on file the original, signed and completed Form I-9 for each employee hired after November 6, 1986, and a copy of the document(s) provided by the employee for the I-9 verification process. Documents must be kept for one year after the employee's termination or for three full years, whichever is greater

11. What do I need to get from a prospective employee to satisfy the government?

The employer may accept either a document from List A or a document from list B and C; never specify which documents that should be presented, and always let the individual provide you with the document he or she has selected. The employer is required to re-verify an employee's work eligibility if the employee provides the employer with a work authorization document containing an expiration date (e.g. Employment Authorization Card, or I-551 Permanent Resident Stamp. The exception to this rule requiring re-verification of employment authorization is the Permanent Resident Card/Alien Registration Receipt Card, which sometimes contains an expiration date. An employer should never re-verify if the Permanent Resident Card/Alien Registration Receipt Card has an expiration date.

12. Do I have to ask an employee for proof of nationality if it's obvious that they were born and reared in the area?

An employer should never ask an employee for proof of nationality. This could be construed as national origin discrimination. The sole purpose of the I-9 Employment Verification process is to determine an individual's work eligibility in the United States.

13. Suppose the USCIS takes some of my Hispanic workers away because of bad documentation. Where do they go?

Typically they go to the local USCIS office for further questioning, and afterwards they are sent to the district USCIS office where they are placed into deportation proceedings.

14. How do I get them back?

If the USCIS determines that they are illegal/undocumented workers, the employer will not likely be able to reemploy these individuals.

15. If I find someone who has fake documentation what should I do and what do I have to do if anything?

If a document appears to be fraudulent on its face, you can contact the USCIS to determine the authenticity of the document, but if you determine from the USCIS that it is fraudulent, this action puts you on notice that you have an undocumented worker, and in this case, you are required to question the individual and ask him/her to provide you with proper I-9 employment verification documents.

16. If I have a worker who has been with me awhile and I find out that they are illegal what can I do to make them legal

Currently there is no provision in the immigration laws which permits an employer to sponsor an employee who is illegal in the United States. This provision existed until April 30, 2001, but this law has not been extended.