

NEW YORK UNIVERSITY POLICY

TITLE: University Policy on the I-9 Verification Process

EFFECTIVE DATE: August 27, 2008

ISSUING AUTHORITY: Provost David McLaughlin and Executive Vice President Michael Alfano

RESPONSIBLE OFFICERS: Catherine Casey, Vice President Human Resources, and Jane Tylus, Vice Provost Academic Affairs

INTRODUCTION: The I-9 Form is a United States Citizenship and Immigration Services form used by employers to verify employees' identities and to establish that workers are eligible to accept employment in the United States. It is officially known as the Employment Eligibility Verification Form. Employers are legally required to have employees complete the I-9 Form, including providing required original supporting documents to establish the identity and eligibility of any individual hired to perform work for an employer in the United States.

PURPOSE: The purpose of this policy is to provide guidance for compliance with the I-9 employment verification process at New York University ("NYU" or "the University"). This policy will not address the process of obtaining work authorization, establishing immigration status, sponsorship, or other immigration-related issues.

APPLICABILITY: This policy applies to anyone with hiring authority and anyone who is responsible for the I-9 employment verification process within any of the schools, departments, and units at NYU.

DISCLAIMER: This policy does not form an agreement of any kind and may be changed, altered, modified, or revoked at the discretion of New York University without notice. Furthermore, this policy is not intended as legal advice. For answers to any specific legal questions concerning the I-9 employment verification process, those responsible for the I-9 process within the schools, units, and departments should contact the NYU Office of Legal Counsel.

POLICY CONTACT: For any questions concerning this policy or the I-9 employment verification process, please contact Kate Gaffney, Deputy Director of Talent Management, at 212-998-1251.

DEFINITIONS OF POLICY TERMS:

IRCA – Immigration Reform and Control Act of 1986

DHS – Department of Homeland Security

USCIS – United States Citizen and Immigration Services

Newly Hired Employee - Any person who provides services or labor for NYU for wages or other remunerations and who was not previously employed. Employees who: (1) are on leaves of absence; (2) have been temporarily laid-off; (3) are on strike; (4) have been reinstated after a discharge; or (4) are seasonal hires *are not* considered “newly-hired” employees upon reinstatement.

EAD – Employment Authorization Document

I-9 FORM: Please refer to <http://www.nyu.edu/hr/pdf/hrforms/ei9.pdf> for the current I-9 Form and List of Acceptable Documents.

I. INDIVIDUALS SUBJECT TO I-9 EMPLOYMENT VERIFICATION

A. New Hires

1. All newly-hired permanent and temporary, part-time, and full-time employees are subject to the I-9 employment verification process if they are physically performing work for the University in the United States. This includes any employees who may be payrolled abroad, but physically performing work in the United States. Any University employee who will not, at any time during his or her employment, physically perform work in the United States for the University is not subject to this process.¹
2. All letters confirming employment (i.e., offer letters, appointment letters) should contain language notifying newly hired employees: (1) that they are subject to the I-9 employment verification process; and (2) of their obligation with respect to completing that process. (See Section II below regarding the employee’s obligations with respect to completing Sections 1 and 2 of the I-9 Form.)

B. Prohibitions

1. All schools, units, and departments are prohibited from employing individuals who have not successfully completed the I-9 employment verification process within the prescribed time limits (see Section II) and from employing *any* undocumented worker.

¹ For example, if a department hires a professor in the Czech Republic to perform work for a specified period entirely in the Czech Republic and that professor will at no time perform any of the work in the United States while on the University payroll, the professor would not have to complete the I-9 employment verification process.

2. All schools, units, and departments are prohibited from knowingly using independent contractors, staffing agencies, and recruitment firms that use undocumented workers.

II. WHEN VERIFICATION MUST BE COMPLETED

A. Permanent and Temporary Employees Hired to Work More than Three Days

1. Section 1 of the I-9 Form must be completed by the employee no later than *the day* the employee begins employment.
2. Section 2 of the I-9 Form must be completed within *three business days* after the employee begins employment. Schools, units, and departments may also require the employee to complete the I-9 process after an offer of employment is made and accepted, but *before* the first day of work.
3. If the employee is unable to present acceptable document(s) by the *third business day* after beginning employment, that employee cannot be allowed to continue to work for the University and must be discharged from employment.
4. The backdating of I-9 Forms is prohibited. The form must be completed and dated within the time frames specified above. There are no exceptions.²

B. Employees Hired To Work for Three Days or Less

1. The I-9 employment verification process must be completed *before* the employee commences employment.

C. Failure to Follow Time Limits

1. The failure to complete the I-9 employment verification process within the time limits prescribed above is a violation of the IRCA and may subject the University and Human Resource professionals, supervisors, and managers to civil and criminal liability.

² For example, if a professor was appointed to teach for the academic term beginning September 1st but had actually started performing work for the University on July 1st, the I-9 employment verification process would have to be fully completed by July 3rd - the *third day* after the professor began performing work for the University. See Section V for guidance on what to do when the professor is performing the work remotely in another state or overseas.

III. THE VERIFICATION PROCEDURE

A. The I-9 Form

1. The following items should be reviewed to ensure that the employee properly completed Section 1 of the I-9 Form:
 - (1) Birth date
 - (2) Box regarding immigration/citizenship status
 - (3) A number or admission number when the second or third box is checked
 - (4) Entry of expiration date if the third box is checked
 - (5) Signature and date
2. It is University policy that Section 2 cannot contain any abbreviations of the names of the documents viewed. The document title, issuing authority, and all other required information must be clearly spelled out in Section 2.³ All appropriate lines must be completed.
3. The corporate address of New York University is to be used in the Certification Section of Section 2. That address is 70 Washington Square South, New York, New York 10012, USA.
4. Corrections must be made with the single line of a pen and initialed and dated. Liquid paper (“white-out”), correction tape, or bold, thick markers cannot be used to correct any errors made on the form. The errors must be legible in the event there is an audit of I-9 paperwork.
5. Tampering with or altering the I-9 Form is prohibited by law.
6. Please see Appendix A for details on the *paperwork procedure* for staff and faculty members. Appendix B on the *paperwork procedure* for students, and the *process flow charts*.

B. Document Review

1. *Original, unexpired* documents from either list A, or list B and C must be reviewed in the presence of the employee. Photocopies of the documents cannot be accepted. Please refer to <http://www.nyu.edu/hr/pdf/hrforms/ei9.pdf> for the complete list of acceptable documents.

³ For example, “SS” cannot be substituted for “Social Security” card.

2. The choice of document from the list to be presented to the University is up to the employee. The employee cannot be told which of the listed documents to present for review.
3. The employee cannot be required to provide more identification or work authorization than is required on the I-9 Form.
4. An employment offer cannot be rescinded based on the expiration date of the work authorization presented at the time of document review. If the employee is legally authorized to work in the United States at the time of the I-9 employment verification process, the authorization must be accepted.⁴
5. The reviewer must conclude that the documents are genuine, related to the employee, and establish the employee's work authorization and identity. The reviewer should compare the name of the employee on the documents presented, review descriptive information on the documents, and make a visual comparison between the descriptive information and the employee.
6. It is illegal to complete an I-9 employment verification process based on documents the reviewer knows to be forged or fraudulent. Any questions regarding authenticity of documentation should be brought to the immediate attention of Kate Gaffney, Deputy Director of Talent Management, at 212-998-1251 for staff, or Corinne McCormick in Academic Appointments at 212-998-2277 for faculty and researchers.
7. The documents presented by the employee are to be photocopied and attached to the original I-9 Form.
8. A copy of the original I-9 Form and the verification documents presented by the employee are to be maintained by the reviewer in a secured place separate from the employee's personnel file until the reviewer receives notification from NYU's PASS system that the employee's work authorization transaction has been entered into the system.
9. Upon notification from PASS that the employee's work authorization has been entered into the system, the copies of the I-9 Form and related documents are to be destroyed in a manner that prevents recreation.

⁴ For example, an employment offer that has been accepted by the employee cannot be rescinded if the work authorization presented at the time of I-9 verification will expire six (6) months from the date of hire.

C. Receipt Rule

1. Replacement Receipts

Official government receipts for a replacement document (e.g., a Social Security card or a passport that has been lost, damaged, or destroyed) must be presented *within three days* of employment. The employee has *ninety (90) days* to present the replacement document. The employee may continue working during those 90 days.

2. Application Receipts

Receipts for applications for work authorization are not acceptable under the “Receipt Rule” and cannot be used as proof of work authorization, with the following exceptions:

- (1) Nonimmigrants authorized to work for a specific employer (H, L, TN and O Visas) may continue their employment for up to 240 days following the expiration of their authorized period of employment upon presentation of a receipt showing that a timely extension application was filed. Please see Appendices C and D for a summary of the various visas sponsored by NYU.⁵
- (2) An H-1B status employee with a pending application for a new employer may commence employment for the new employer upon presentation of a receipt for the filed H-1B application.
- (3) A temporary I-551 stamp on a Form I-94 serves as a receipt for an alien registration card application. An employee may work up to the expiration date on the stamp or one year from the issuance date if there is no expiration date.
- (4) A refugee admission stamp on a Form I-94 serves as a receipt for an employment authorization card, employment authorization document, or a Social Security card. The refugee may work for up to 90 days while an application for one of these documents is pending.

IV. ISSUES THAT MAY ARISE DURING DOCUMENT REVIEW

⁵ As stated on NYU’s employment application and on its website, NYU will consider sponsoring only faculty for visas.

A. Related Documents

1. Further inquiry of the employee by the reviewer of I-9 documents is permitted when the name the employee has given does not match the name on the documents, or the descriptive information on the documents does not match the visual comparison with the employee. Any reasonable explanation should be documented in a memorandum and attached to the I-9 Form.⁶ Any discrepancies that do not have a reasonable explanation must be brought to the attention of Kate Gaffney, Deputy Director of Talent Management, at 212-998-1251 for staff or Corinne McCormick in Academic Appointments at 212-998-2277 for faculty and researchers *and* must be reviewed by the NYU Office of Legal Counsel at 212-998-2246 before any action is taken.
2. An employee can be asked to present other documents to establish employment eligibility if the Social Security card presented is marked “NOT VALID FOR EMPLOYMENT.”

B. Fraudulent Documents

1. Documents that do not appear genuine cannot be accepted to verify identity or eligibility to work in the United States. The knowing acceptance of fraudulent or tampered documents is prohibited and subject to civil and criminal penalties. Any suspected fraudulent or tampered documents must be brought to the attention of Kate Gaffney, Deputy Director of Talent Management, at 212-998-1251 for staff *or* Corinne McCormick in Academic Appointments at 212-998-2277 for faculty and researchers *and* reviewed by the NYU Office of Legal Counsel at 212-998-2246 before any action is taken.

V. NEW HIRES TEMPORARILY LOCATED IN OTHER STATES OR OVERSEAS

A. Certification

1. New hires who begin working for the University⁷ while in another state and are unable to be physically present in New York before the expiration of the three-day rule (see Section II above), may have their I-9 Forms certified by a local notary public, attorney, or anyone authorized by the University to certify the authenticity of a document within the three days. The completed I-

⁶ For example, the employee is using his or her maiden name instead of the married name.

⁷ The new hire is on the University’s payroll.

9 Form should be promptly sent to the individual responsible for I-9 Forms in the new hire's school, unit, or department.

2. New hires who begin working for the University⁸ while in another country do not have to complete an I-9 until they are physically present in the United States. Once present, they must complete the I-9 verification process before the expiration of the three-day rule (see Section II above). The completed I-9 Form should be promptly sent to the individual responsible for I-9 Forms in the new hire's school, unit, or department.

VI. NEW HIRES UNDER 18 AND DISABLED EMPLOYEE PLACEMENTS

A. Employees Under the Age of 18

Employees under the age of 18 may not have access to the identification documents available to employees over the age of 18. Therefore, identity may be established by any one of the following documents:⁹

- (1) school records;
- (2) report cards;
- (3) child actor/model labor permits;
- (4) medical records; or
- (5) the minor employee's parent or guardian can verify the minor employee's identity.

B. Placement of Disabled Employees

A disabled employee¹⁰ who is placed at the University through a nonprofit organization or state agency as part of a rehabilitation program can have a representative from the organization or agency verify the employee's identity by completing Section 2 of the I-9 Form.

VII. RE-VERIFICATION

A. Employees Subject to Re-verification

⁸ The new hire is on the University's payroll.

⁹ This list is not inclusive. Please refer to the I-9 Form and Instructions.

¹⁰ The term "disabled" is defined as: (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however,the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent [one] from performing in a reasonable manner the activities involved in the job or occupation sought or held. NY Exec. Law § 292 (21).

1. Employees who list an expiration date for employment authorization in Section 1 of the I-9 Form must be re-verified before the expiration date.
2. Employees who do not list an expiration date in Section 1 of the I-9 Form are subject to re-verification if they present an employment authorization document with expiration date, for example, an I-551 stamp.
4. Re-verification is to be completed in Section 3 of the I-9 Form. The steps outlined above for initial employment verification with regard to Section 1 and document review are to be followed in the re-verification process. The person(s) responsible for the I-9 employment verification in his or her school, unit, or department is also responsible for the re-verification process. Re-verification must be completed on the 06/05/07 (or later) version of the I-9 Form by writing the employee's name in Section 1 and completing line C in Section 3. Only a List A or a List C document need be presented for re-verification.

B. Employees Not Subject to Re-Verification

1. Employees who transfer within New York University are not subject to the re-verification process unless they have temporary employment authorization that will expire.
2. Employees re-hired within *three years* of initially completing the I-9 verification process are not subject to re-verification as long as the initial I-9 shows that they were authorized to work and that work authorization has not expired.
3. Employees who checked "U.S. Citizen" in Section 1 do not need to re-verify.
4. Employees who checked "Permanent Resident" in Section 1 do not need to be re-verified unless they presented an unexpired foreign passport with a Form I-551 stamp.
5. Employees who change their name, address, or gender identity are not subject to re-verification, except the school, unit, or department is required to notify the Human Resources Records Office of the change so that such change can be noted on the original I-9 Form.¹¹

¹¹ The University should be able to match the new change to the original I-9 Form for audit purposes.

VIII. EXPIRATION OF WORK AUTHORIZATION

Employees with expired work authorizations cannot continue to be employed at New York University, with the following exceptions:

A. Asylees and Refugees

Asylees and refugees are authorized to work as of the date the status is granted, regardless of whether the asylee or refugee has an EAD, expired or unexpired. They may present any document issued by DHS (or formerly INS) evidencing their status. They may also present an unrestricted Social Security card.

IX. I-9 RECORDS

A. Duration of Employment

At NYU, I-9 records are to be maintained for the duration of employment separate from other personnel records.

B. Separation of Employment

At NYU, I-9 records are to be kept for three (3) years after the separation of employment.

C. Student Employment

At NYU, the I-9 records are to be kept for five (5) years for each student.

Violations of this policy will result in discipline.

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APPENDIX A: PAPERWORK PROCEDURE AND PROCESS FLOWCHART

A. I-9 PROCESS FOR FACULTY, RESEARCHERS, AND STAFF

1. Once a school or unit has selected an applicant to hire, the Human Resources Officer (“HRO”), Human Resources (“HR”) staff (or other responsible individual) is to send an offer letter and I-9 Form to the new hire with instructions to complete Section 1 of the I-9 Form and to bring to the HRO or HR staff original documents from a list of acceptable documents for I-9 verification on the first day of employment.
2. The new hire must submit the I-9 Form with Section 1 completed to the HRO or HR staff on or before the first day of employment.
3. The HRO or HR staff at the school or unit must verify the original I-9 documents and complete Section 2 of the I-9 Form on or before the 3rd day of employment.
4. The HRO or HR staff must make copies of the completed I-9 Form and original documents and store the copies in a secure location separate from the employee’s local personnel file. The original documents are to be returned to the new hire.
5. The HRO or HR staff is to submit the completed **original I-9 Form** along with copies of original documents to the HR Records Office or the Office of Academic Appointments depending on the employee’s object code¹².
6. The HRO or HR staff enters the “*Hire*” transaction into the Personnel Action Submission System (“PASS”).
7. The HR Records Office (if staff) or the Office of Academic Appointments (if for faculty and researchers) reviews the I-9 documentation and approves the “*Hire*” transaction.
8. Once the “*Hire*” transaction has been posted to Human Resource Information System (“HRIS”), the HRO or HR Staff will receive a PASS notification indicating the transaction is complete.
9. Upon receiving the PASS notification, the HRO or HR staff shall ensure that all local copies of the I-9 Form and other documents are destroyed in a manner that prevents re-creation of the documents.

¹² The HR Records Office is responsible for processing I-9 documentation for object codes 100, 110, 104, 114, 106, 116, 107, 117, and 115. The Office of Academic Appointments is responsible for processing I-9 documentation for object codes 102, 112, 103, 113, 101, 111, 130, 131, 150, and 542.

10. The HR Records Office (if staff) or the Office of Academic Appointments (if faculty and researchers) maintains the original I-9 Form and copies of verification documents in accordance with NYU's I-9 policy.
11. In the event the I-9 Form is not submitted to the HR Records Office or the Office of Academic Appointments:
 - a. If an I-9 Form was completed by the third day of employment but lost in transmission to the HR Records Office (if staff) or the Office of Academic Appointments (if faculty and researchers), the employee can continue working but a new I-9 form must be completed within five (5) business days or the employee *must stop working* and be removed from payroll until an I-9 Form is completed. The replacement I-9 Form *cannot be backdated* to the date the new hire originally began employment. A signed note must be attached to the replacement I-9 Form explaining that the initial I-9 Form was lost in transmission.
 - b. If an I-9 Form was not completed nor submitted by the third day of employment, the new hire *must stop working* and be removed from payroll until an I-9 form is completed and processed by the HR Records Office (if staff) or the Office of Academic Appointments (if faculty and researchers). The I-9 Form *cannot be backdated* to the date the new hire originally began employment.
 - c. Neither the HR Records Office (if staff) nor the Office of Academic Appointments (if faculty and researchers) can approve a "Hire" transaction until a completed original I-9 form has been submitted.

12. New Employee Orientation

At the New Employee Orientation, new hires will be asked if they have completed the I-9 Form. If not, the facilitators of the orientation will provide the employee with an I-9 Form and instructions on completing the I-9 verification process.

B. I-9 RE-VERIFICATION FOR FACULTY, RESEARCHERS, AND STAFF

1. The Talent Management Office (if staff) or the Office of Academic Appointments (if faculty and researchers) will run the Visa Expiration report on a regular basis to identify any employees whose work authorizations are about to expire.
2. The Talent Management Office or the Office of Academic Appointments will notify the HRO or HR staff that an employee's work authorization is about to expire at least one hundred twenty (120) days before the authorization expires.

3. Upon such notification, the HRO or HR staff shall have the employee fill out **Section 1** of a **new** I-9 Form that was issued 06/05/07 or later and present the necessary original documents for verification before the existing work authorization expires.
4. The HRO or HR staff will complete **Section 3** of the I-9 Form, copy the completed I-9 Form and original documents, and store the copies in a secured place separate from the employee's local personnel file.
5. The HRO or HR staff is to submit the completed **original I-9 Form** along with copies of original documents to the HR Records Office (if staff) or the Office of Academic Appointments (if faculty and researchers).
6. The HRO or HR staff completes the PASS Work Authorization transaction to change the work authorization expiration date.
7. The HR Records Office (if staff) or the Office of Academic Appointments (if faculty and researchers) reviews the I-9 documentation and approves the Work Authorization transaction. The new I-9 Form and documentation will be attached to the old I-9 Form.
8. Once the Work Authorization transaction has been posted to HRIS, the HRO or HR staff will receive a PASS notification indicating that the transaction is complete.
9. Upon receiving the PASS notification, the HRO or HR staff shall ensure that all local copies of the re-verified I-9 Form and other documents are destroyed in a manner that prevents re-creation of the documents.
10. The HR Records Office or the Office of Academic Appointments shall attach the original re-verified I-9 Form to the original I-9 Form and copies of the original documents in accordance with the NYU's I-9 policy.
11. In the event the new I-9 form is not submitted to the HR Records Office or the Office of Academic Appointments:
 - a. If an I-9 Form was completed by the expiration of the current work authorization but lost in transmission to the HR Records Office (if staff) or the Office of Academic Appointments (if faculty and researchers), the employee can continue working but a new I-9 form must be completed within five (5) business days or the employee *must stop working* and be removed from payroll until an I-9 Form is completed. The replacement I-9 Form *cannot be backdated* to the date the new hire originally began employment. A signed note must be attached to the replacement I-9 Form

explaining that the initial I-9 Form was lost in transmission.

- b. If an I-9 Form was not completed nor submitted by the expiration of the current work authorization, the new hire *must stop working* and be removed from payroll until an I-9 form is completed and processed by the HR Records Office (if staff) or the Office of Academic Appointments (if faculty and researchers). The I-9 Form *cannot be backdated* to the date the new hire originally began employment.
- c. Neither the HR Records Office (if staff) nor the Office of Academic Appointments (if faculty and researchers) can approve a “*Work Authorization*” transaction until a completed original I-9 form has been submitted.

Any questions concerning the I-9 verification or re-verification procedures for faculty and researchers should be directed to Corinne McCormick in Academic Appointments at 212-998-2277. Any questions concerning the I-9 verification or re-verification procedures for staff should be directed to Alfredo Braza, in Records and Information Services in the Division of Human Resources at 212- 992-7904.

APPENDIX B: PAPERWORK PROCEDURE FOR STUDENT EMPLOYEES

1. Before hiring a student employee, the faculty member, department administrator, or supervisor responsible for filling the position must do the following:
 - a. Advise the student that he/she is responsible for completing a Student Employment application at the Wasserman Center prior to the first day of work.
 - b. Provide the Human Resources Officer (“HRO”) or hiring designee with the relevant student information, appointment details, and start date.
2. The student must complete the Student Employment application process as described in Wasserman Center’s website. Refer to <http://www.nyu.edu/careerdevelopment/students/oncampus1.php> for details.
3. On or before the first day of work, the student employee must present the completed Student Employment application to the HRO or hiring designee as proof of work authorization.
4. In the event that a student employee has not completed the Student Employment application, the student *cannot* be allowed to start working and must be directed to immediately proceed to the Wasserman Center.
5. Once the completed application is presented, the HRO or HR staff enters the “*Hire*” transaction into the Personnel Action Submission System (“PASS”).
6. The student employee’s start date *cannot* be earlier than the date the Student Employment application is completed. *Backdating* I-9 Forms is not permitted.
7. Wasserman Center reviews the I-9 documentation and approves the “*Hire*” transaction.
8. Once the “*Hire*” transaction has been posted to Human Resource Information System (“HRIS”), the HRO or HR staff will receive a PASS notification indicating the transaction is complete. The student may begin to work.

Any questions concerning the I-9 verification or re-verification procedures for student employees should be directed to Paula Lee of the Wasserman Center at 212-998-4749.

APPENDIX C: SUMMARY OF VISAS FOR WHICH NYU MAY CONSIDER SPONSORSHIP FOR FACULTY AND RESEARCH APPOINTMENTS

1. J-1 Visas for professors, short-term scholars, research scholars, specialists, and students on academic training.
2. H-1B Visa for Faculty and Other Degreed Professionals
3. O-1 Visas for Individuals of Extraordinary Ability
4. E-3 Visas for Australians Citizens in Specialty Occupations
5. TN Visas for Canadians and Mexican Citizens seeking a position in the United States as a NAFTA Professional
6. F-1 Students Visas for Optional Practical Training

APPENDIX D: SUMMARY OF STUDENT VISAS

1. F-1 Visas for Undergraduate and Graduate Students
2. J-1 Visas for Undergraduate and Graduate Students with Independent Funding

Any questions concerning the visas identified above should be directed to Lisa Vogel, Office of International Students and Scholars, at 212-998-4727.