

**All Personnel**

BP 4111.2

4211.2

**LEGAL STATUS REQUIREMENT**

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Note: Employers are required to comply with the federal Immigration and Nationality Act as amended by the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. On an individual basis, an employer may hire a citizen rather than an alien, if desired, provided the two individuals are equally qualified. However, an employer may not adopt a blanket policy of always preferring a qualified citizen over a qualified alien.

The district shall hire only citizens and aliens who are lawfully authorized to work in the United States. District employment practices shall not discriminate on the basis of citizenship status or national origin, nor shall they discriminate against any refugees, grantees of asylum, or persons qualified for permanent or temporary residency.

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*(cf. 4111/4211 - Recruitment and Selection)*

Note: Employers may be subject to fines and/or imprisonment if they fail to request evidence of employment eligibility or if they knowingly hire or continue to employ undocumented workers. Under 2009 amendments to federal regulations, the term “knowing” includes not only actual knowledge but also knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead a person, through the exercise of reasonable care, to know about a certain condition. Constructive knowledge may include, but is not limited to, situations where an employer: (i) fails to complete or improperly completes the Employment Eligibility Verification Form, I-9; (ii) has information available to it that would indicate that the alien is not authorized to work, such as Labor Certification and/or an Application for Prospective Employer; or (iii) acts with reckless and wanton disregard for the legal consequences of permitting another individual to introduce an unauthorized alien into its work force or to act on its behalf. Knowledge that an employee is unauthorized to work may not be inferred from an employee’s foreign appearance or accent.

All new employees shall show appropriate documents which certify that they are legally eligible to work in the United States, as required by law. Nothing in this policy is intended to preclude the employment of teachers under the Exchange Visitor program in 22 C.F.R § 62.24.

*Legal Reference:*

UNITED STATES CODE, ~~TITLE 8~~

8 U.S.C. 1324~~(a)(b)~~ Immigration and Nationality Act, as amended by Immigration Reform and Control Act of 1986 and Immigration Act of 1990

CODE OF FEDERAL REGULATIONS, ~~TITLE 8~~

8 C.F.R. Part 274(a) Control of Employment of Aliens

22 C.F.R. §62.24 Teachers

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**LEGAL STATUS REQUIREMENT**

When being hired by the district for any kind of work, prospective employees shall be informed that they will be asked, within three days of employment, to show documents which certify their work eligibility and identity. Persons employed for three days or less must provide such documentation on their first day. This documentation may consist of one item in group A below, or two items, one from group B and one from group C below.

Note: Pursuant to the Immigration Act of 1990, an employer cannot require an employee to present more or different documents than those required by law, nor can an employer refuse to honor documents which on their face reasonably appear to be genuine and related to the person presenting them. Employees can choose whichever documents they want to present from the lists of acceptable documents.
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**Group A - Documents Establishing Both Work Authorization and Identity**

1. A United States passport, unexpired or expired.
2. A Certificate of U.S. Citizenship (INS Form N-560 or N-561).
3. A Certificate of Naturalization (INS Form N-550 or N-570).
4. An unexpired foreign passport with I-551 stamp or attached INS Form I-94 indicating unexpired employment authorization.
5. An Alien Registration Receipt Card with photograph (INS Form I-151 or I-551).
6. An unexpired Temporary Resident Card (INS Form I-688).
7. An unexpired Employment Authorization Card (INS Form I-688A).
8. An unexpired Reentry Permit (INS Form I-327).
9. An unexpired Refugee Travel Document (INS Form I-571).
10. An unexpired Employment Authorization Document issued by the INS which contains a photograph (INS Form I-688B).

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**LEGAL STATUS REQUIREMENT (continued)**

**Group B - Documents Establishing Identity**

1. A driver's license or ID card issued by a state or outlying possession of the United States, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address.
2. An ID card issued by federal, state or local government agencies or entities. provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address.
3. A school ID card with a photograph.
4. A voter's registration card.
5. A U.S. military card or draft record.
6. A military dependent's ID card.
7. A U.S. Coast Guard Merchant Mariner Card.
8. Native American tribal documents.

Note: Should an individual present a native American tribal document which establishes both work eligibility and identity, only that one document would be needed.
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9. A driver's license issued by a Canadian government authority.

**Group C - Documents Establishing Work Eligibility**

1. A U.S. Social Security card issued by the Social Security Administration, other than one stating it is not valid for employment.
2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350).
3. An original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States, bearing an official seal.
4. A Native American tribal document.
5. A U.S. Citizen ID Card (INS Form I-197).
6. An ID Card for use of Resident Citizen in the United States (INS Form I-179).
7. An unexpired employment authorization document issued by the INS, other than those listed in Group A.

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**LEGAL STATUS REQUIREMENT (continued)**

If a minor has a work authorization document but does not have any of the identity documents in Group B, identity may be established by means of a school record or report card; clinic, doctor or hospital record; or a day-care or nursery school record. Lacking any of these, a minor still may work, provided that a parent/guardian completes Section 1 of Form I-9 for the minor. In the space for the minor's signature, the parent/ guardian must write "minor under age 18." The parent/guardian also must complete the "Preparer/Translator Certification" section. In Section 2 under List B after the words "Document #," the personnel [or payroll](#) officer should write "minor under age 18."

If unable to provide satisfactory documentation, the employee shall furnish a receipt indicating that the needed document has been requested. This receipt must be presented within three days of the hire, and the document itself must be provided within 90 days of the hire.

Note: To continue employing an alien authorized by a work permit or other document which establishes only temporary work authorization, the employer is responsible for verifying renewal of eligibility when the document expires. Temporary work authorizations therefore should be flagged as indicated below.

The personnel [or payroll](#) officer shall examine the documents presented and record the expiration date as it appears on all work authorization permits. This expiration information shall be subsequently flagged so as to remind the personnel [or payroll](#) officer to verify that the permit has been renewed and that the employee is still eligible to work.

Should an employee present two documents on which the individual's name is not the same, the personnel [or payroll](#) officer shall ask to see documentation of name change, such as would be provided by a marriage license, divorce papers, court order or other legal document verifying the name change.

Note: When inspecting documents which establish employment eligibility, the employer is only required to be satisfied that the documents reasonably appear on their face to be genuine.

After examining the documents presented, the personnel [or payroll](#) officer shall copy them. Such copies shall be kept confidential and used only as needed to help justify the district's past decision to accept the documents as valid.

To protect full confidentiality, the personnel officer shall seal these copies in an envelope on which the following message has been printed:

*The enclosed documents, provided only to verify work eligibility for (name of employee), were examined on (date) by (signature) . This sealed envelope may be opened only by the Superintendent or designee. Refer to BP/AR 4111.2/4211.2/4311.2 for current regulations.*

(cf. 4112.6/4212.6/4312.6 - Personnel Records)

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**LEGAL STATUS REQUIREMENT (continued)**

The personnel [or payroll](#) officer shall ask the employee to complete and sign INS Form I-9. [The form must be the most current version released by the INS.](#)

Note: Employers should help employees in completing INS form I-9 only in the case of individuals who cannot read, who cannot write, or who need the form translated. If such help is necessary, the reader, assister or translator also must sign the form and should be careful to give only procedural assistance and offer no counsel with regard to the individual's status.

Note: The I-9 form must be completed within three business days of the hire. If the term of employment is three days or less, the form must be completed before the end of the first working day. I-9 forms are not needed for persons who are independent contractors or who are employed by a contractor providing contract services.

The personnel [or payroll](#) officer, [or designee](#) shall complete and sign the I-9 form and shall assure that it is kept until a full year after the employee leaves the job.

[All I-9 forms shall be kept together in a separate file for at least three years from the hiring date. Where the employment extends longer, the I-9 shall be kept for the life of employment and for one year following termination of employment. I-9 forms shall be kept for all employees hired after November 6, 1986.](#)

I-9 forms shall be kept for all employees hired after November 6, 1986.

Note: Without a warrant or subpoena, INS officers may not inspect any personnel documents other than the I-9 form and documents maintained by the employer to substantiate the I-9 form. The INS is required to provide at least three days' notice prior to inspecting I-9 forms.

I-9 forms shall be available for inspection upon request by officers of the Immigration and Naturalization Service or the Department of Labor. Other personnel documents shall not be made available to government agents unless they present a warrant or subpoena.

The Superintendent or designee shall open the sealed envelope containing copies of an employee's work authorization documents only in connection with inquiries by the INS.

In order to avoid the loss of any employer rights, all communications received from the Immigration and Naturalization Service shall be answered within 30 days.

Note: Employers who receive "Notice of Intent to Fine" may request a hearing, but this request must be made within 30 days.