

Questions & Answers Related to COVID-19 Temporary Policies

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Source; <https://www.uscis.gov/i-9-central/whats-new>

Due to the COVID-19 pandemic, E-Verify and Form I-9 have created some temporary policies to help employers.

Questions about Form I-9 Requirements

Q1. Can you provide an overview of changes to Form I-9 requirements due to COVID-19 and also explain what is staying the same?

A. Yes, here is an overview:

The employee completes Section 1 no later than the first day of employment.

There is no change to current requirements.

The employer completes Section 2 within three business days of their employee's first day of employment.

There is no change to current requirements for employees who are physically present at a work location.

Employers and workplaces that are operating remotely may follow the DHS [news release](#) that announced flexibility in requirements related to Form I-9.

If employers are performing inspections remotely (e.g., over video link, fax or email, etc.) they must obtain, inspect, and retain copies of the Section 2 documents within three business day of hire. In addition to completing Section 2, Employers also should enter "COVID-19" in the Additional Information field. **A physical inspection must take place, after normal operations resume.** The date of the physical inspection and who conducted it, should also be recorded in the Additional Information field.

As a reminder, the employer may designate an authorized representative to complete Section 2 or 3 of Form I-9 on behalf of the company, including personnel officers, foremen, agents or notary public. The Department of Homeland Security does not require the authorized representative to have specific agreements or other documentation for Form I-9 purposes. If an authorized representative completes Form I-9 on behalf of the employer, they are still liable for any violations in connection with the form or the verification process.

The employer physically examines their employee's documents with their employee present.

DHS has announced changes to these procedures in certain circumstances; see the [news release](#) that announced flexibility in complying with requirements related to Form I-9.

The employer completes Section 3, Reverification.

DHS has announced changes to these procedures; the ability to inspect documents remotely for some employers applies to reverification as well. See the March 20 [news release](#) for details on remote inspection.

If you are updating Section 3, write "COVID-19 EXT" in the margin or annotate in the additional information field.

There is no change to current requirements for employees physically present at a work location.

Q2. Will the three-day requirement for completing a Form I-9 be relaxed or extended?

A. No.

Q3. Once operations are back to normal, what is the responsibility for employers?

A. The guidance states that once normal operations are commenced, Section 2 should be completed by physically examining both the employee and the work authorization documents, whoever does this, should sign Section 2.

Q4. Many states are extending the expiration date of state IDs and/or driver's licenses. How should the extension be documented in Section 2?

A. If the employee's state ID or driver's license expired on or after March 1, 2020, and the state has extended the document expiration date due to COVID-19, then it is acceptable as a List B document for Form I-9. Enter the document's expiration date in Section 2 and enter "COVID-19 EXT" in the Additional Information field. Employers may also attach a copy of the state motor vehicle department's webpage or other notice indicating that their documents have been extended.

Employers can confirm that their state has auto-extended the expiration date of state IDs and driver's licenses by checking the state Motor Vehicle Administration or Department of Motor Vehicle's website.

Q5. The DHS March 20 announcement allows for remote inspection of documents and providing a "COVID-19" annotation in the Section 2 "Additional Information" field. How should employers handle this annotation if they use an electronic Form I-9 that does not have this field?

A. The employer can physically or electronically attach a note to an employee's Form I-9 providing the information that ICE guidance has requested in the Form I-9 "Additional Information" field. Any notation should clearly explain the situation and be signed and dated by the employer.

Questions about E-Verify

Q6. Can you clarify how remote inspection works for E-Verify?

A. On a temporary basis due to COVID-19, employers and workplaces that are operating remotely have the option to inspect Form I-9 documents remotely. Employers who choose the remote inspection option may inspect the Section 2 documents over video link, fax, email, etc. Employers should obtain, remotely inspect, and retain copies of the identity and employment eligibility documents their employees provide, within three business days for purposes of completing Section 2.

After they inspect the employee's documents remotely and determine whether the documents reasonably appear to be genuine and relate to the employee, they should create an E-Verify case for the employee. They should still follow current guidance and create the E-Verify case for their new hire within three business days from the date of hire. Employers must use the hire date from the employee's Form I-9 when creating the E-Verify case. If case creation is delayed due to COVID-19 precautions, select "Other" from the drop-down list and enter "COVID-19" as the specific reason

Q7. In the DHS March 20 announcement, the option for remote inspection only applies to remote workers. What if I have employees working both remotely and reporting in person to work?

A. The current DHS guidance allows for flexibility only when completing a Form I-9 for a new employee that is only working remotely, but as stated in paragraph five of the DHS news release, "...if newly hired employees or existing employees are subject to COVID-19 quarantine or lockdown protocols, DHS will evaluate this on a case-by-case basis."

Q8. If an employee presented a receipt from an agency that is now closed due to COVID-19, how should the employer proceed after the 90 days if the document has not been received?

A. Although many federal and state agencies are closed to the public, internal operations continue. If available, employees should use available customer service phone lines, emails to contact customer service, and other online portals federal and state agencies may have available.

This is an ongoing issue. DHS will reassess this policy if necessary.

Q9. If an employee presents a driver's license that has expired (but has been auto-extended by our state due to COVID-19), what expiration date do I use when creating the E-Verify case?

A. If a state has automatically extended the employee's driver's license due to COVID-19, employers should enter the actual expiration date as printed on the employee's document when creating the E-Verify case.