

EMPLOYMENT
& LABOR LAW

ADVICE
SOLUTIONS
LITIGATION

Alfred J. Landegger
Larry C. Baron
Michael S. Lavenant

Roxana E. Verano
Laura S. Withrow
Christopher L. Moriarty
Oscar E. Rivas
Elijah Richardson
Marie D. Davis
Brian E. Ewing

LANDEGGER | BARON | LAVENANT

A L A W C O R P O R A T I O N

PAVING THE WAY

NEW HIRE DOCUMENTATION, POSTERS & POLICIES

Employment Law Workshop

By

**Alfred J. Landegger, Esq.
Michael S. Lavenant, Esq.**

Main Office

15760 Ventura Blvd.
Suite 1200
Encino, CA 91436
(818) 986-7561
Fax (818) 986-5147

Ventura Office

751 Daily Drive
Suite 325
Camarillo, CA 93010
(805) 987-7128
Fax (805) 987-7148

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I. Advertisement of Job Opportunities

- A. Employers may choose from a number of methods of accepting and processing applications.
 - 1. Accept application from anyone wishing to apply for any current or prospective job opening;
 - 2. Limiting acceptance of applications to specific days of the week or to periods during which positions are available; or
 - 3. Accepting applications in response to specific ads or employment requests.
- B. Nature and size of the company and its need to expand or limit its applicant pool will dictate the procedure chosen.
- C. Reasons Why Acceptance Methods May Be Desired
 - 1. Even if no positions available, the company may need to build up a reservoir of persons possessing the requisite skills to fill jobs when they do become available.
 - 2. Federal contractors may want to increase pool of underutilized persons, i.e., minority or female.
- D. Methods To Decrease Risk of Claims from Applicants
 - 1. Notify current employees of the job vacancy and provide them an opportunity to apply for position.
 - 2. Provide (Post) adequate notice to applicants advising when and for what positions applications are being accepted.
 - 3. Establish a policy whereby all job applicants are required to complete employment applications before being considered for employment.
 - 4. Compare qualified applicants before selecting those to whom further consideration for employment will be given.
 - 5. Advise all applicants of the company's re-application requirements , if any, such as the period of "active" applications.
- E. Media Utilized to Accept Applications - If applications are only to be accepted by electronic mail or internet, does the policy have a disparate impact on minority groups.

II. Employment Applications

- A. General Issues Concerning Applications - The employment application should request, among other things, the applicant's name and any other names that the applicant presently or in the past has used, the applicant's social security number, address and telephone number, and the applicant's work history (including the names, addresses, and telephone numbers of former and current employers) for at least the past ten years. The employer should also require the applicant to provide the name, telephone number, address, and relation of at least three references. The applicant's response, as well as his or her failure to completely respond to such questions, can be useful in a background check and in assessing the applicant's trustworthiness.
- B. Application Form - Special Concerns
 - 1. "Equal Employment Opportunity Employer" Statement
 - a. Simple - We Are An Equal Employment Opportunity Employer
 - b. Detailed - The questions found in this form are being asked to properly evaluate your ability and chance for success in the position for which you are applying. Every effort has been made to comply with applicable federal law and laws of our state. It is not our intent to discriminate in employment on account race, color, sex, ancestry, religion, age, national origin, handicap, sexual preference, disability, marital status or Vietnam era veteran status.
 - 2. Material Misrepresentations - Include statement that the applicant certify that the information contained in the application is correct to the best of the applicant's knowledge and that the applicant understand that any misrepresentation or omission of information requested on the application is sufficient cause to be denied a job offer, or if the misrepresentation or omission is discovered after hired, grounds for immediate dismissal.
 - 3. At-Will Statement/Contract Disclaimers
 - a. At-Will Statement - Include statement that the applicant acknowledges that employment with the company is "at-will" - for no definite time - and that either the applicant or company may terminate the employment relationship at any time with or without cause, and with or without notice.
 - b. Contract Disclaimer - Include statement that the applicant acknowledges that no promise or guarantee of continued employment has been given, and that any assurances of continued employment, whether written, oral or by conduct, shall not be interpreted as changing the nature of the employment relationship unless specifically acknowledged in writing by a particular high-level representative of the company.

4. Applicant's signature
 - a. The signature of the applicants, including those in high-level professional or managerial positions, must be obtained.
 - b. This is especially important in connection with the at-will disclaimer, as well as the attestation as to truth and accuracy.
5. "Office Use" Sections
 - a. Limit to procedural matters, such as whether applicant was interviewed, date, and by whom.
 - b. Stray marks relative to protected classification on application or resume can lead to claims of discriminatory animus.

C. Application Form - Discrimination Issues

1. Direct inquiries concerning an applicant's protected class status are prohibited.
2. Exceptions –
 - a. Inquiry is for affirmative action or EEO reporting and record keeping purposes, i.e., EEO-1 Report
 - (1) Employers who are obligated to compile information can request such information on a voluntary basis on a separate form bearing a legend explaining the purpose of the inquiry and assuring the applicants that submission of the information is purely voluntary, will not be used in any selection decision, and that no disparate treatment will result if the information is not provided.
 - (a) Eliciting information on the race/ethnic identity of an applicant by direct inquiry is not encouraged
 - (b) Visual observation is sufficient
 - (2) If information compiled, should be filed apart from job application.
 - b. A protected characteristic is a bona fide occupational qualification (BFOQ) for the position then being filled.
 - c. Protected class information needed for compensation and benefit administration such as age, marital status or number of dependents should, where possible, be elicited through post-employment inquiries.

3. Examples of Inappropriate Inquiries

a. Age or Date of Birth inquiries -

- (1) Do not automatically violate state or federal anti-discrimination laws, but will be closely scrutinized so as not to be used for an impermissible purpose.
- (2) If concerned about employment of minors use an inquiry similar to one of the following:
 - (a) If under 18 years of age, can you after employment, submit a work permit? ☐ N/A ☐ Yes ☐ No
 - (b) Are you over 18 years of age? ☐ Yes ☐ No (If not, employment is subject to verification that you are of minimum legal age and that you are able to supply any required work permit.)

b. Citizenship, Place of Birth, National Origin, or Ancestry Inquiries

- (1) Immigration Reform and Control Act of 1986 (IRCA) prohibits employer from hiring or continuing to employ aliens who are not authorized to work in the United States.
- (2) However, an employer may not turn away applicants because they appear foreign born.
- (3) Employer may ask if the applicant is authorized to work in the United States, whether the applicant can supply documentation to establish eligibility to work in the United States, or condition offer on providing information.
- (4) Exception exists if U.S. Citizenship is required for a position by law, regulation or executive order, or pursuant to the terms of a contract with the federal, state or local government.

c. Inquiries as to Marital Status, Pregnancy, Number of Children, Child-Bearing, or Child Care.

d. Arrest Record Inquiries

- (1) State - Labor Code, Section 432.7 and the Fair Employment and Housing Act (FEHA) prohibits an employer from asking any job applicant to provide information concerning an arrest record or detention that did not result in a conviction.

- (2) Federal - The EEOC and courts have held that the inquiry has a chilling effect on minority applicants.
- e. Conviction Record Inquiries
 - (1) Permitted, but affirmative responses may not be used as an absolute bar to employment.
 - (2) Employers are required to evaluate each conviction and determine whether or not it is job-related.
 - (3) Additional restrictions on the inquiry into criminal convictions is limited by the Labor Code, which does not allow the employer to seek information concerning a judicially expunged record; any misdemeanor conviction for which probation has been completed and the case has been judicially dismissed; or any arrest for which a pretrial diversion program has been successfully completed
- f. Financial Status Inquiries
 - (1) Inquiries into an applicant's financial status, i.e., questions concerning automobile or home ownership and past garnishment of wages can, under certain circumstances, be construed to be discriminatory.
 - (2) Inquire to the extent required by the position and be prepared to justify.
- g. Height and Weight Inquiries
- h. Physical and Mental Condition, Handicap and Disability Inquiries
 - (1) An employer is prohibited from making inquiries of an applicant into the existence, nature or severity of his or her disability at the pre-offer stage of the selection process.
 - (2) An employer may inquire about the applicant's ability to perform the essential functions of the job for which the application is being submitted with or without reasonable accommodation.
 - (3) Do not phrase the inquiry with the terms "handicap" or "disability."
- i. Inquiries Concerning Organizational Memberships, Charitable Activities, Hobbies, or Personal Interests

- (1) Not in and of themselves violations of state and federal anti-discrimination issues.
 - (2) Can constitute evidence of discrimination.
 - (3) Can also constitute evidence in an unfair labor practice charge with the National Labor Relations Board.
 - (4) Must have some direct bearing on job requirements, otherwise omit.
- j. Photographs and Physical Description Inquiries
 - (1) Do not require applicant to submit photograph.
 - (2) Can lead to claim of discrimination based on protected class status.
 - (3) If deemed necessary, should be obtained after hiring decision has been made.
- k. Inquiries Regarding Weekend/Holiday Work Availability
 - (1) Do not inquiry about applicant's observation of religious holidays or whether their religion prevents them from working a particular day.
 - (2) If concerned about adequate staff on particular days or holidays, question them on the availability to work those days.
 - (a) If asked, must also advise applicant that employer will make reasonable efforts to accommodate special religious needs.
 - (3) Response to these questions can not be used to screen out persons of particular religions.
 - (4) Must make reasonable accommodation for the religious practices and beliefs of applicants and employees.
- l. Military Experience Inquiries
 - (1) Avoid pre-employment inquiries concerning military discharge unless the information sought is job related.
 - (2) Where military service record information is necessary, evaluate negative responses on a case-by-case basis and identify any potential disparate impact information by monitoring how the information is used.

- (3) Additionally, employers should be careful about inquiring as to a person's status in the military as it pertains to current or potential required reserve duty. Discrimination on this basis is prohibited by the Uniformed Services Employment and Reemployment Rights Act ("USERRA").

m. Job Referral Inquiries

- (1) Inquiries for information on job referrals and personal references and documented follow-up contact with such references may minimize risk to the employer for negligent hiring claims.
- (2) Analysis of information may lead to effective recruiting methods.
- (3) However, caution should be taken if the number of "word of mouth" hires or hires from a particular source results in a disproportionately low number of minority hires.
- (4) Weigh the benefits with the risks.

n. Inquiries Concerning Employment of Relatives or Friends

- (1) Inquiries for personal references and documented follow-up contact with such references may minimize risk to the employer for negligent hiring claims.
- (2) May lead to claims of pro- or anti-nepotism, thereby leading to claims of direct or disparate impact claims of discrimination.
- (3) If information is not utilized in application process, practice should be eliminated as it is not relevant to an applicant's competence.

o. Education, Skills, and Work Experience Inquiries

- (1) Inquiry into the dates of graduation is not permissible, since this may be interpreted as evidence of discrimination on the basis of age, which is prohibited by the Age Discrimination in Employment Act ("ADEA").
- (2) However, it is generally permissible to request dates of attendance, but not for elementary and high school. An inquiry addressing "number of years completed" may be a sufficient alternative with minimal risk.
- (3) Identify essential job functions for ADA purposes.

- (4) If inquiries are challenged, evaluated under a disparate impact theory.
- (5) Employers that require applicants to meet certain educational requirements or to have particular job skills or work experience should adhere to the following guidelines:
 - (a) Make periodic reviews to determine if prerequisites are justified by a valid business necessity.
 - (b) Carefully examine if supporting information for requirements exist.
 - (c) Develop guidelines to assess weight given to this inquiry.
 - (d) Monitor process for disparate impact.
- p. Bonding Inquiries - permissible if reasonable and required by state or federal law.

III. Conducting Interviews

A. Interviewing Basics

- 1. Why Interviews Are Necessary?
 - a. The process of interviewing applicants for employment is an important and effective method of gathering information about the applicant and determining whether the individual is qualified for employment.
 - b. However, in light of the wide range of applicable federal and state employment discrimination laws, the interview process must be conducted carefully in order to minimize the employer's exposure to potential legal liability.
 - c. In this connection, it is essential that the interviewer be certain to ask applicants all questions in a nondiscriminatory manner. Any question asked during an interview should be strictly job-related.
- 2. Focus of The Interview
 - a. The interviewer must focus the interview on obtaining information about the applicant's ability to perform the job.
 - b. In order to do this, it is important for the interviewer to know beforehand the specific requirements of the job for which the applicant has applied.

- c. Further, it may be useful to the interviewer to prepare a list of relevant and appropriate questions prior to meeting with the applicant.
- d. Specifically, the interviewer should identify technical or other skills necessary for the job, the time commitment required by the position (overtime, travel, hours of work), and the necessary educational background.

B. Interview Caveats

- 1. Beware of stray comments written on the application, resume or interview sheet by the interviewer. These are often just snippets (often irrelevant) of the conversation that can assume magnified importance later on.
- 2. Do not code resumes or applications.
- 3. Questions may not directly address the applicant's race, color, religion, national origin, sex, age, marital status, disability or any other basis protected by federal, state or local law.
 - a. Likewise, interviewers must be careful not to make inquiries that may indirectly elicit such information.
 - b. Significantly, in some cases the intent of the employer or interviewer may not be relevant in assessing the presence of discrimination.

C. Overview of Conditional Hiring Pending Physical Examination

D. Overview of Conditional Hiring Pending Drug Testing

E. Labor Code §970 et seq. Issues

IV. Background Checks

A. Legal Issues Regarding Obtaining of References and Backgrounds Checks

- 1. Background checks can be beneficial in avoiding claims of negligent hiring if the employee subsequently commits a crime or tortious act on the job.
- 2. Background checks may be required in particular industries, i.e., health care or educational institution.
- 3. Reference checks can be helpful in determining whether the applicant can perform the job in question.
- 4. However, inconsistent background checks may invite claims of discrimination, and improper background checks may invite claims of invasion of privacy.

5. Superfluous or extraneous information may serve as the basis for a claim of retaliation of unfair labor practice charge.
6. Do not inquire as to an applicant's prior EEO claims, union activities, or previous workers' compensation claims.

B. Reference Checks

1. Telephone Reference Checks

- a. The simplest and quickest way to verify a candidate's past salary and work experience is to call the applicant's previous employer(s).
- b. Because the human resources representative may not be as familiar with the individual's work history, you may want to reach his/her direct supervisor - however this request may be declined.
- c. An effective telephone reference check will require that the employer first obtain from the employment application the following information:
 - (1) applicant's full name;
 - (2) employer's full name;
 - (3) immediate or former supervisor's full name and telephone number
 - (4) applicant's prior job title(s);
 - (5) dates of employment;
 - (6) salary;
 - (7) position to be filled;
 - (8) and candidate's written permission to contact the present (or former) employer.
- d. Should the supervisor seem reticent to speak about the applicant, the employer should, at a minimum, ascertain the position held, the duration of employment (date of hire and date of separation), and the final salary.

2. Written Reference Checks

- a. Written reference checks are a useful alternative to telephone checks in cases where a former employer (or its representative), or educational institution is hesitant to speak with a future employer.

- b. For example, the former employer or institution may be wary of divulging information that later may be construed as damaging to the applicant's reputation, or as the cause for his/her denial of employment, thus leading to litigation.
 - c. An employer may ask the applicant to sign a release form, to be sent with the reference inquiry, informing the former employer or educational institution that the applicant has given his/her permission to release information without legal repercussion.
 - 3. Credit and Record Checks
 - a. Can prove invaluable in determining whether an applicant is suitable for employment.
 - b. Background checks typically include a variety of information, including criminal records.
 - c. Criminal records, especially records of convictions, provide valuable information about an applicant's past and may assist the employer in determining if the applicant is fit for the job.
 - d. These types of records, and the accompanying inquiries and investigations, may also help the employer to avoid liability premised on the doctrine of negligent hiring.
- C. Barriers to Conducting Background Checks - California and Federal Fair Credit Report Acts.
 - 1. Impose limitations on the manner in which information about "consumers" may be collected, disseminated, and used by way of "consumer reports."
- D. Federal and California Credit Reporting Act
 - 1. California has enacted the California Consumer Credit Reporting Agencies Act (CCRAA) which may be used to eliminate a persons expectation of privacy with proper disclosures and authorizations, even in the employment sector. (Civil Code, §1785.1 et seq.)
 - 2. There is also a similar federal law, the Fair Credit Reporting Act (FCRA). (See 15 U.S.C. §1681et seq.)
 - 3. These acts limit a consumer reporting agency's ability to release consumer credit information to certain subscribers (such as employers), and only upon receipt of consent by the affected consumer in certain situations.

4. Prior to being able to obtain information from a consumer reporting agency (CRA) for “employment purposes” the employer must certify to the CRA that it has made all required disclosures and obtained authorization from the consumer, and that it will not utilize the report in violation of any equal employment opportunity law.
5. Also, the employer may not take any adverse action (such as deny employment) against the applicant before providing them with a copy of the report and a summary of consumer rights. The employer must also notify the applicant after taking the adverse action.
6. California Requirements
 - a. California employers must provide notice and obtain consent every time they hire a consumer reporting agency to conduct a background check, except for investigations into suspected misconduct or wrongdoing.
 - (1) Employers do not have to provide a copy of the report regarding investigation into suspected misconduct or wrongdoing.
 - b. Employers must notify the consumer if adverse action is taken based in part or wholly on information provided in the background check, and may have to provide a copy of the report.
 - c. Employers must provide consumers with public record reports obtained directly by the employer, unless a consumer waives his right.
 - d. Employers do not have to provide information regarding background checks, reference check or investigation conducted in-house other than these enumerated public records.
 - e. Each applicant will have the ability to check off a box on the consent/disclosure sheet and have the employer send a copy of the background report directly to the applicant. Employers may outsource the sending of the background report to their background-screening firm.
 - f. The background can only go back seven years unless employers are required by a governmental agency to go back further when checking qualifications.

E. I-9s

1. Have Employee Complete Section 1 of Form I-9.
 - a. If a translator/preparer is required, they must complete certification.
 - b. Employer has the burden to ensure that employee completes and signs Section 1.
2. Must be completed within 3 business days of start of employment.
3. Documents from List A establish both identity and employment eligibility.
4. If no documents under List A, need one each from List B and List C.
5. Must have good faith belief that the documents are facially valid upon examination.
6. Photocopies
 - a. Employers may, but are not required to photocopy document.
 - b. If photocopies, must be maintained with I-9.
7. Anti-Discrimination
8. Employers are prohibited from requiring an employee to provide more or different employment authorization documents than what is required by law and/or reject documents facially valid.
9. An employer cannot refuse to hire an individual because of a future expiration date.
10. Maintaining I-9s
 - a. Must be maintained for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.
 - b. Copy maybe maintained in personnel file.
 - c. For audit purposes, a copy of I-9s should be maintained in a separate file.
11. Updating and Reverification
 - a. Create “Tickler” system to advise of expiring documents.

- b. Unless questions arise, do not reject an individual who wants to update their personal information with a changed name or social security number.

12. Electronic Storage of I-9s

- a. Employers have been clamoring for many years for the flexibility to employ current technology to administer their I-9 records. As the immigration enforcement division of DHS (Bureau of Immigration and Customs Enforcement, informally called "ICE") has acknowledged itself, there are many advantages to electronic administration. First, electronic administration may be less costly. Second, electronic form-filling options may produce records with fewer omissions and deficiencies. Third, electronically retained I-9s are more easily searchable for audit purposes and identifiable for re-verification purposes. This is particularly important to multi-site and/or multi-state employers with interest in uniformity and quality control over diverse worksites.
- b. On October 30, 2004, President Bush signed legislation authorizing employers to accept an electronic signature on I-9s and retain those forms in electronic format. The implementing regulations were not dispersed on the effective of April 28, 2005, but ICE has did issue some guidance for use of electronic forms.
- c. Under this law, employers can continue to complete Form I-9 on paper but also store them electronically. Employers may also choose to complete and retain the Form I-9 electronically without a paper copy.
- d. There is no government-wide electronic signature or record keeping standard. Until there are final regulations providing detailed standards on obtaining and retaining electronic signatures and record keeping, ICE recommends standards used by the Internal Revenue Service (IRS) as a helpful reference for employers. An example of following the IRS standards: If a Form I-9 is completed electronically, the electronic signature should be entered and include an acknowledgement that the document has been read and understood. ICE observed that currently electronic signatures are accomplished using various technologies such as electronic signature pads, Personal Identification Numbers, biometrics and "click to accept" dialog boxes.
- e. A quality assurance program for electronic storage systems includes periodic checks of electronically stored data and methods to prevent and detect unauthorized access to the data. The electronic storage system should include an indexing system and ability to reproduce hardcopies of electronically stored Form I-9 to facilitate access by government inspectors.

13. Revisions to I-9

- a. Recently the US Customs and Immigration Service (USCIS) announced a change in the acceptable “List A” documents that an employer may accept to establish identity and eligibility.
- b. An employer may no longer accept the following documents under List A:
 - (1) Certificate of US Citizenship - Form N-560 or N-561;
 - (2) Certificate of Naturalization - Form N-550 or N-570;
 - (3) Form I-151;
 - (4) Unexpired Reentry Permit - Form I-327; or
 - (5) Unexpired Refugee Travel Document - Form I-571
- c. One document not listed has been added to List A - Form I-766 - Employment Authorization Document.
- d. The revised form was issued November, 2007 and should be used immediately since the employer is required to know of the changes. Older forms could only be used until December, 2007. Regardless of the form, employers are required to know that not all of the documents listed on the older versions should be accepted.

EMPLOYMENT APPLICATION

GENERAL DATA

Last Name		First Name		Middle Name	
Have you ever used another name? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If yes, please specify for purposes of a reference check:					
Present Address		Number	Street	City	State Zip Code
Years at Above Address			Home Telephone Number ()		
Position Applying For					Date of Application
Full Time or Part Time			Shift or Hours Preferred		
Drivers License Number (if applicable)			Expiration Date		

If employed in the position for which you have applied, would you be in a supervisory or subordinate relationship to any relative of your household? ☐ Yes ☐ No

PERSONAL DATA

Person to notify in case of an Emergency:		Name	Home Telephone Number ()		
Present Address		Number	Street	City	State Zip Code
<i>How did you learn of this job opening?</i> <input type="checkbox"/> Advertisement <input type="checkbox"/> Friend <input type="checkbox"/> Walk-In <input type="checkbox"/> Employment Agency <input type="checkbox"/> Relative <input type="checkbox"/> Other _____					
List membership in professional organizations which you feel would enhance your application. You may exclude any whose names would indicate the race, religious creed, color, national origin, or ancestry of its members. _____ _____					

If under 18 years of age, can you after employment, submit a work permit? [] N/A [] Yes [] No

Have you ever been convicted of a crime (felony or misdemeanor) OTHER THAN (1) a marijuana-related conviction that occurred more than two years ago; and (2) an offense for which you were referred to, and participated in, any pre-trial or post-trial diversion program? [] Yes [] No

If yes, please state the date of conviction, the county and state, and the nature of the offense.

NOTE: An affirmative response to this question will not result in your automatic disqualification for employment.

SKILLS

Typing Speed (wpm):	Shorthand (wpm):
Machines Operated:	
Other Training/Skills (include bilingual ability if relevant to the position for which you are applying:	
Branch of Military Service:	State Dates: From To
State relative skills acquired during military service:	

PROFESSIONAL & TECHNICAL APPLICANTS ONLY

Professional License Number:	Expiration Date:	Type of License:	State:
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Is there any reason why you would be unable to perform or to safely perform any of the duties of the position for which you have applied, as set forth on the job description for that position? [] Yes [] No

If "Yes," please explain:

EDUCATION

	HIGH SCHOOL	COLLEGE	TRADE, PROFESSIONAL SCHOOL OR OTHER
Name			
Address			
Number of Years			
Course or Major			
Diploma/Degree			

WORK EXPERIENCE

Last/ Present Employer	Length of Service (Dates)		Duties Performed
Address	<u>Start</u>	<u>Leave</u>	
Telephone Number(s)			
Supervisor's Name and Position	Hourly Rate/Salary		
Your Job Title	<u>Starting</u>	<u>Final</u>	
Reason For Leaving			
May we contact now? <input type="checkbox"/> Yes <input type="checkbox"/> No (If still employed)			
Employer	Length of Service (Dates)		Duties Performed
Address	<u>Start</u>	<u>Leave</u>	
Telephone Number(s)			
Supervisor's Name and Position	Hourly Rate/Salary		
Your Job Title	<u>Starting</u>	<u>Final</u>	
Reason For Leaving			
May we contact now? <input type="checkbox"/> Yes <input type="checkbox"/> No (If still employed)			
Employer	Length of Service (Dates)		Duties Performed
Address	<u>Start</u>	<u>Leave</u>	
Telephone Number(s)			
Supervisor's Name and Position	Hourly Rate/Salary		
Your Job Title	<u>Starting</u>	<u>Final</u>	
Reason For Leaving			
May we contact now? <input type="checkbox"/> Yes <input type="checkbox"/> No (If still employed)			

APPLICANT'S STATEMENT

I hereby certify that I have been informed of the duties, the hours and days of work of the position for which I am applying, and that the information on this application is correct and complete to the best of my knowledge.

I agree to have any of the statements checked by the Company unless I have indicated to the contrary. Further, I understand that falsification or omission of any material information on this application, if I receive a job offer may be considered sufficient cause for immediate termination. I agree that if employed, I will abide by all policies and procedures established by the employer.

I hereby acknowledge that my employment is "at-will," that I may resign at any time and the Company may terminate my employment at any time, with or without cause, and with or without notice, that any assurances of continued employment, whether written, oral or by conduct, shall not be interpreted as changing the nature of the employment relationship unless specifically acknowledged in writing by the President of the Company.

By:

Signature of Applicant

Date

FOR COMPANY USE ONLY

Interviewed: [] Yes [] No

Remarks: _____

Employed: [] Yes [] No

Starting Date: _____

Job Title: _____

Salary: _____

Dept: _____

By:

Name and Title

Date

(Revised 11-16-07)

Instructions**Please read all instructions carefully before completing this form.**

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents presented have a future expiration date may also constitute illegal discrimination.

What Is the Purpose of This Form?

The purpose of this form is to document that each new employee (both citizen and non-citizen) hired after November 6, 1986 is authorized to work in the United States.

When Should the Form I-9 Be Used?

All employees, citizens and noncitizens, hired after November 6, 1986 and working in the United States must complete a Form I-9.

Filling Out the Form I-9

Section 1, Employee: This part of the form must be completed at the time of hire, which is the actual beginning of employment. Providing the Social Security number is voluntary, except for employees hired by employers participating in the USCIS Electronic Employment Eligibility Verification Program (E-Verify). **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

Preparer/Translator Certification. The Preparer/Translator Certification must be completed if **Section 1** is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete **Section 1** on his/her own. However, the employee must still sign **Section 1** personally.

Section 2, Employer: For the purpose of completing this form, the term "employer" means all employers including those recruiters and referrers for a fee who are agricultural associations, agricultural employers or farm labor contractors. Employers must complete **Section 2** by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required

document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, **Section 2** must be completed at the time employment begins. **Employers must record:**

1. Document title;
2. Issuing authority;
3. Document number;
4. Expiration date, if any; and
5. The date employment begins.

Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the Form I-9. **However, employers are still responsible for completing and retaining the Form I-9.**

Section 3, Updating and Reverification: Employers must complete **Section 3** when updating and/or reverifying the Form I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in **Section 1**. Employers **CANNOT** specify which document(s) they will accept from an employee.

- A. If an employee's name has changed at the time this form is being updated/reverified, complete Block A.
- B. If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.
- C. If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired **or** if a current employee's work authorization is about to expire (reverification), complete Block B and:
 1. Examine any document that reflects that the employee is authorized to work in the U.S. (see List A **or** C);
 2. Record the document title, document number and expiration date (if any) in Block C, and
 3. Complete the signature block.

What Is the Filing Fee?

There is no associated filing fee for completing the Form I-9. This form is not filed with USCIS or any government agency. The Form I-9 must be retained by the employer and made available for inspection by U.S. Government officials as specified in the Privacy Act Notice below.

USCIS Forms and Information

To order USCIS forms, call our toll-free number at **1-800-870-3676**. Individuals can also get USCIS forms and information on immigration laws, regulations and procedures by telephoning our National Customer Service Center at **1-800-375-5283** or visiting our internet website at **www.uscis.gov**.

Photocopying and Retaining the Form I-9

A blank Form I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed Forms I-9 for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.

The Form I-9 may be signed and retained electronically, as authorized in Department of Homeland Security regulations at 8 CFR § 274a.2.

Privacy Act Notice

The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of U.S. Immigration and Customs Enforcement, Department of Labor and Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

Paperwork Reduction Act

We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: **1)** learning about this form, and completing the form, 9 minutes; **2)** assembling and filing (recordkeeping) the form, 3 minutes, for an average of 12 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0047.

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-9, Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.		I attest, under penalty of perjury, that I am (check one of the following): <input type="checkbox"/> A citizen or national of the United States <input type="checkbox"/> A lawful permanent resident (Alien #) A _____ <input type="checkbox"/> An alien authorized to work until _____ (Alien # or Admission #) _____	
Employee's Signature			Date (month/day/year)

Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature

Print Name

Address (Street Name and Number, City, State, Zip Code)

Date (month/day/year)

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) _____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

Section 3. Updating and Reverification. To be completed and signed by employer.

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.	
Document Title: _____	Document #: _____
Expiration Date (if any): _____	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.	
Signature of Employer or Authorized Representative	Date (month/day/year)

LISTS OF ACCEPTABLE DOCUMENTS

LIST A Documents that Establish Both Identity and Employment Eligibility	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Eligibility
1. U.S. Passport (unexpired or expired)		1. 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		1. U.S. Social Security card issued by the Social Security Administration <i>(other than a card stating it is not valid for employment)</i>
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. 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		2. Certification of Birth Abroad issued by the Department of State <i>(Form FS-545 or Form DS-1350)</i>
3. An unexpired foreign passport with a temporary I-551 stamp		3. School ID card with a photograph		3. 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. An unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B)		4. Voter's registration card		4. Native American tribal document
		5. U.S. Military card or draft record		5. U.S. Citizen ID Card <i>(Form I-197)</i>
5. An unexpired foreign passport with an unexpired Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer		6. Military dependent's ID card		6. ID Card for use of Resident Citizen in the United States <i>(Form I-179)</i>
		7. U.S. Coast Guard Merchant Mariner Card		
		8. Native American tribal document		7. Unexpired employment authorization document issued by DHS <i>(other than those listed under List A)</i>
		9. Driver's license issued by a Canadian government authority		
		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor or hospital record		
		12. Day-care or nursery school record		

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)

Instrucciones**Lea cuidadosamente las instrucciones antes de llenar este formulario. (Para uso únicamente en Puerto Rico.)**

Notificación Anti-Discriminación. Es ilegal discriminar a cualquier individuo (con excepción de un extranjero no autorizado a trabajar en los E.U.A.) al contratar, desempear, reclutar o contratar por honorarios debido al origen del individuo o su ciudadanía. Es ilegal discriminar a cualquier individuo elegible para trabajar. Los empleadores **NO PUEDEN** especificar que documento(s) aceptarán de un empleado. El negarse a emplear a un individuo porque la fecha de vencimiento de los documentos presentados está cercana puede también constituirse como una discriminación ilegal.

¿Cuál es el propósito de este formulario?

El propósito de este formulario es documentar que cada empleado nuevo (ciudadano o no ciudadano) contratado después del 6 de noviembre de 1986 está autorizado a trabajar en los Estados Unidos.

¿Cuándo debe ser utilizado el Formulario I-9?

Todos los empleados, ciudadanos y no ciudadanos, contratados después del 6 de noviembre de 1986 y que estén trabajando en los Estados Unidos deben llenar el Formulario I-9.

Como Llenar el Formulario I-9

Sección 1, Empleado: Esta parte del formulario debe llenarse en el momento de la contratación, que generalmente es el inicio del empleo. Proveer el número de Seguro Social es voluntario, a excepción de aquellos empleados que han sido contratados por empleadores que participan en el Programa Electrónico de Verificación de la Elegibilidad de Empleo de USCIS. **El empleador debe asegurarse que la Sección 1 se llene puntual y correctamente.**

Certificación del Traductor o Tercero. La certificación del traductor o tercero debe llenarse si la **Sección 1** es preparada por cualquier persona que no sea el empleado. Un traductor o tercero sólo puede utilizarse cuando el empleado no pueda llenar la **Sección 1** por sí mismo. Sin embargo, el empleado debe firmar la **Sección 1** personalmente.

Sección 2, Empleador: Con la finalidad de llenar este formulario, el término "empleador" se refiere a todos los empleadores incluyendo los reclutadores y los contratistas por honorarios tales como las asociaciones agrícolas, empleadores agrícolas o los contratistas de trabajo agrícola.

Los empleadores deben llenar la **Sección 2** examinando las pruebas de identidad y elegibilidad de empleo dentro de los tres (3) días hábiles a partir de la fecha del inicio de empleo. Si el empleado está autorizado para trabajar, pero no puede presentar los documentos requeridos dentro de los tres (3) días hábiles, debe presentar un recibo de esta solicitud dentro de tres (3) días

hábiles, y los documentos requeridos en un periodo de noventa (90) días. Sin embargo, si los empleadores contratan a individuos para trabajar por menos de 3 días hábiles, debe llenarse la **Sección 2** en el momento en el que se inicie el empleo. **Los empleadores deben anotar:**

1. Título del documento.
2. Autoridad que expide el documento.
3. Número de documento.
4. Fecha de vencimiento, si la hay; y
5. Fecha de comienzo del empleo.

El empleador debe firmar y colocar la fecha de la certificación. El empleado debe presentar sus documentos originales. El empleador puede, aunque no está obligado, a fotocopiar los documentos presentados. La(s) fotocopia(s) sólo puede(n) utilizarse para la verificación del proceso y deben guardarse con el Formulario I-9. **Sin embargo, los empleadores son los responsables de llenar y guardar el Formulario I-9.**

Sección 3, Actualización y nueva verificación: Los empleadores deben llenar la **Sección 3** cuando se esté actualizando y, o verificando el Formulario I-9. Los empleadores deben verificar de nuevo la elegibilidad de empleo de los empleados para trabajar antes de la fecha de vencimiento anotada en la **Sección 1**. Los empleadores **NO PUEDEN** especificar que documento(s) aceptarán del empleado:

- A. Si el nombre de un empleado ha cambiado en el momento en que este formulario está siendo actualizado o que se realiza la nueva verificación, llene la casilla A.
- B. Si un empleado es contratado nuevamente dentro de tres (3) años de la fecha original del formulario, asimismo el empleado sigue siendo elegible para ser contratado bajo las mismas condiciones previamente señaladas en este formulario (actualización), llene la casilla B y la casilla de la firma.
- C. Si un empleado es contratado nuevamente dentro de tres (3) años de la fecha original de este formulario y la autorización del empleador ha expirado o si la autorización del empleador actual está por vencer (actualización), llene la casilla B y:
 1. Compruebe que cualquier documento que refleje que el empleado está autorizado para trabajar en los E.U.A. (Ver lista A o C);
 2. Anote el título del documento, número del documento y la fecha de vencimiento (si la hay) en la casilla C, y
 3. Llene la casilla de la firma.

¿Cuál es el cargo por tramitación?

No hay ningún cargo por concepto de tramitación del Formulario I-9. Este formulario no es tramitado por la USCIS o por ninguna otra agencia del gobierno. El empleador debe guardar el Formulario I-9 y tenerlo disponible para que pueda ser inspeccionado por funcionarios del gobierno de los E.U.A., como especifica el Aviso de la Ley de Privacidad más adelante.

Formularios e Información de USCIS

Para encargar formularios, por favor llame al **1-800-870- 3676**. Si desea conseguir información sobre los formularios de USCIS o sobre las leyes inmigratorias, procedimientos y normas de inmigración, llame a nuestro Centro de Servicio Nacional al Cliente al **1-800-375-5283** o visite nuestra página web: **www.uscis.gov**.

Fotocopia y Conservación del Formulario I-9

Una copia en blanco del Formulario I-9 puede ser reproducida, siempre y cuando ambos lados sean copiados. Las instrucciones deben estar disponibles a todo empleado que llene este formulario. Los empleadores deben conservar los formularios I-9 completos por tres (3) años después de la fecha inicial de empleo o un año después de la fecha en que el empleo termine, lo que sea más tarde.

El Formulario I-9 puede ser firmado y guardado electrónicamente, según lo autorizado en la reglamentación 8 CFR § 274a.2 del Departamento de Seguridad Nacional.

Aviso de la Ley de Privacidad

La autoridad que recopila esta información es la Ley de Reforma y Control de Inmigración de 1986, Pub. L. 99-603 (8 USC 1324a).

Esta información es para que los empleadores verifiquen la elegibilidad de los individuos a contratar para evitar contrataciones ilícitas, reclutamientos o contratados por honorarios, de extranjeros no autorizados a trabajar en los Estados Unidos.

Esta información será usada por los empleadores como base de su registro para determinar la elegibilidad de un empleado para trabajar en los Estados Unidos. El formulario será guardado por el empleador y se hará disponible para la inspección de oficiales del Departamento de Inmigración y Aduanas de los E.U.A., el Departamento de Trabajo y la Oficina del Consejo para Inmigración y Prácticas de Empleo Injustas.

La aportación de la información requerida en este formulario es voluntaria. Sin embargo, un individuo no puede empezar su empleo sin antes llenar este formulario, ya que el empleador está sujeto a sanciones civiles o criminales si no cumple con la Ley de Control y Reforma de Inmigración de 1986.

Ley de Reducción de Trámites

Intentamos crear formularios e instrucciones que sean precisos, fáciles de entender y que le impongan la menor carga posible cuando nos provee información. A menudo esto es difícil porque algunas leyes de inmigración son muy complejas. Por consiguiente, la carga de trámites para la recopilación de información es calculada de la siguiente manera: 1) informarse acerca de este formulario y como llenar el formulario 10 minutos; 2) juntar y archivar (registros) el formulario, 2 minutos, lo cual da un promedio de 15 minutos por respuesta. Si usted tiene algún comentario acerca de precisión de esta estimación o sugerencias para hacer este formulario más simple, puede escribir a: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0047.

Department of Homeland Security
U.S. Citizenship and Immigration Services

**Form I-9, Employment
Eligibility Verification**

Por favor, lea cuidadosamente las instrucciones antes de llenar este formulario. Las instrucciones deben estar disponibles cuando se llene este documento.

AVISO ANTI-DISCRIMINACIÓN: Es ilegal discriminar a cualquier individuo elegible para trabajar. Los empleadores **NO PUEDEN** especificar qué documento(s) aceptarán de un empleado. La negativa a emplear a una persona debido a una fecha futura de vencimiento de los documentos presentados puede constituir discriminación ilegal.

Sección 1. Información y Verificación del Empleado. El formulario deber ser llenado y firmado por el empleado en el momento en el que comience a trabajar.

Nombre en Letras de Imprenta: Apellido	Nombre	Inicial del Segundo Nombre	Nombre de Soltero(a)
Dirección (nombre y número de la calle)		Nº de Apto.	Fecha de nacimiento (mes/día/año)
Ciudad	Estado	Código Postal	Nº de Seguro Social
Estoy informado que la ley Federal estipula el encarcelamiento y/o la sanción por declaraciones falsas o por el uso de documentos falsos al llenar este formulario.		Certifico, bajo pena de perjurio, que soy (marque uno de los siguientes): <input type="checkbox"/> Ciudadano o natural de los Estados Unidos <input type="checkbox"/> Residente legal permanente (Nº de Extranjero) A _____ <input type="checkbox"/> Extranjero autorizado a trabajar hasta el _____ (Nº de Extranjero o Nº de Admisión) _____	
Firma del empleado			Fecha (mes/día/año)

Certificación del traductor y, o tercero. (Se debe llenar y firmar si la Sección 1 la llena cualquier persona que no sea el empleado.) Certifico, bajo pena de perjurio, que he ayudado a llenar este formulario y que según mi entender, la información es verdadera y correcta.

Firma del Traductor o Tercero	Nombre y Apellido (en imprenta)
Dirección: (Nombre y Número de la Calle, Ciudad, Estado, Código Postal)	
Fecha (mes/día/año)	

Sección 2. Revisión y Verificación del Empleador. Se debe llenar y firmar por el empleador. Verifique un documento de la lista A o un documento de la lista B y uno de la lista C, tal y como figura en la parte posterior de esta página, y anote el título, número y fecha de vencimiento, si hay alguna, del documento.

	Lista A	O	Lista B	Y	Lista C
Título del Documento:	_____	_____	_____	_____	_____
Autoridad que Emite el Documento:	_____	_____	_____	_____	_____
Nº de Documento:	_____	_____	_____	_____	_____
Fecha de Vencimiento (si la hay):	_____	_____	_____	_____	_____
Nº de Documento:	_____	_____	_____	_____	_____
Fecha de Vencimiento (de ser el caso):	_____	_____	_____	_____	_____

Certificación - Certifico, bajo pena de perjurio, que he verificado los documentos presentados por el empleado nombrado anteriormente; los documentos en la lista anterior aparentan ser genuinos y son referentes al empleado nombrado. La persona antes mencionada fue empleada (mes/día/año) _____ y a mi mejor entender declaro que el empleado es elegible para trabajar en los E.U.A. (Las agencias de empleo del estado pueden omitir la fecha en la que el empleado fue contratado.)

Firma del Empleado o el Representante Autorizado	Nombre y Apellido (en letra de imprenta)	Título
Nombre y Dirección de la Organización o Compañía (Nombre y Número de la Calle, Ciudad, Estado, Código Postal)		Fecha (mes/día/año)

Sección 3. Actualización y Nueva Verificación. Se debe llenar y firmar por el empleador.

A. Nombre (de ser el caso)	B. Fecha de re-contratación (mes/día/año) (de ser el caso)
C. Si la autorización de trabajo previa de su empleador ha expirado, proporcione la información actual en la que indique la elegibilidad actual para trabajar.	
Título de Documento:	Nº de Documento:
Fecha de Vencimiento (si la hay):	

Certifico, bajo pena de perjurio, con mi mejor conocimiento que este empleado se encuentra apto(a) para trabajar en los E.U.A. En caso de que el empleado haya presentado documentos, los documentos que he revisado aparentan ser genuinos y referentes al empleado.

Firma del Empleado o Representante Autorizado	Fecha (mes/día/año)
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LISTAS DE DOCUMENTOS ACEPTABLES

LISTA A	LISTA B	LISTA C
Documentos que Establecen Ambas la Identidad y Elegibilidad Para Trabajar	Documentos que Establecen la Identidad	Documentos que Establecen la Elegibilidad para el Empleo
1. Pasaporte Estadounidense (vigente o vencido)	1. Licencia de conducir o Tarjeta de Identificación (ID) emitida por el estado o territorio de los Estados Unidos si contienen fotografía o el nombre, fecha de nacimiento, género, altura, color de ojos y dirección	1. Tarjeta de Seguro Social de los Estados Unidos emitida por la Administración de Seguro Social (con excepción de una tarjeta que indique que no se encuentra apto(a) para trabajar)
2. Tarjeta de Residencia Permanente o Tarjeta de Registro de Extranjeros (Formulario I-551)	2. Tarjeta de Identificación (ID) emitida por agencias o entidades del gobierno federal, estatal o local o si contiene una fotografía o información tal como el nombre, fecha de nacimiento, sexo, estatura, color de ojos y dirección	2. Partida de nacimiento en el extranjero emitida por el Departamento de Estado (Formulario FS-545 o Formulario DS-1350)
3. Pasaporte extranjero vigente con un timbre temporal I-551	3. Identificación estudiantil con fotografía	3. Una copia original o certificada de la partida de nacimiento emitida por el estado, condado, autoridad municipal o territorio de los Estados Unidos con sello oficial
4. Tarjeta de Autorización de Empleo vigente con fotografía (Formulario I-766, I-688, I-688A, I-688B)	4. Tarjeta de registro de votante	4. Documento tribal de Nativo-Americano
	5. Tarjeta Militar de los Estados Unidos o tarjeta del servicio militar	5. Tarjeta de Identificación de Ciudadano(a) Estadounidense (Formulario I-197)
5. Pasaporte extranjero vigente con Registro de Entrada y Salida Vigente, Formulario I-94, llevando el mismo nombre que figura en el pasaporte y conteniendo una certificación del estado no inmigrante del extranjero, si ese estado autoriza a el extranjero a trabajar para el empleador	6. Tarjeta Militar de Identificación de dependientes	6. Tarjeta emitida para el uso de Ciudadano Residente en los Estados Unidos (Formulario I-179)
	7. Tarjeta de Marino Mercante de la Guardia Costera Estadounidense	
	8. Documento tribal de Nativo-Americano	7. Autorización de Empleo vigente emitida por DHS (que no sea una de las de la lista A)
	9. Licencia de conducir emitida por el gobierno canadiense	
	Para personas menores de 18 años de edad que no puedan presentar los documentos en la lista anterior:	
	10. Expediente académico o tarjeta de calificaciones	
	11. Informe médico, de clínica u hospital	
	12. Registro de guardería	

En la parte 8 del Manual para Empleadores (M-274) encontrará ejemplos de muchos de estos documentos.

NEW HIRE CHECKLIST

The following items must be signed and contained in every new hire employee packet. If a document does not apply, please write N/A. Please initial that the document has been presented to the employee and signed.

Employment Application (completed, dated and signed by applicant)	(Optional)	_____
Post-Hire Employee Data Sheet	(Optional)	_____
Federal Form W-4 - Employee Withholding Allowance	(Mandatory)	_____
California State Form DE-4 Employees Withholding Allowance Certificate	(Mandatory)	_____
I-9 Form - (completed by applicant and company representative)	(Mandatory)	_____
Voluntary Information Form	(Optional)	_____
Authorization to obtain Investigative Report	(Optional)	_____
Notification of Request for Investigative Consumer Report	(Optional)	_____
Workers' Compensation Benefits Statement and Physician Election Form (English and Spanish/Acknowledgment)	(Mandatory)	_____
State Disability Insurance Booklet-DE2515 (English/Spanish)	(Mandatory)	_____
EDD For Your Benefit Booklet-DE2320	(Mandatory)	_____
Family Care and Medical Leave and Pregnancy Disability Leave Notice (State)	(Optional)	_____
Family and Medical Leave Act of 1993 (Federal)	(Optional)	_____
California Paid Family Leave-DE2511 (English and Spanish)	(Mandatory)	_____
Department of Fair Employment and Housing Sexual Harassment Pamphlet (English and Spanish)	(Mandatory)	_____
Company's Sexual Harassment Policy with Acknowledgment	(Mandatory)	_____
Company's Drug and Alcohol Policy with Acknowledgment	(Optional)	_____
Employee Handbook	(Optional)	_____
Employee Handbook Acknowledgment of Receipt	(Optional)	_____
Insurance Premium Authorization	(Optional)	_____
Unearned Vacation Agreement	(Optional)	_____
Supplies/Uniform Cost Authorization	(Optional)	_____
Acknowledgment of Receipt of Mandatory Documents	(Optional)	_____

Date: _____

By: _____

Supervisor's Signature

Date: _____

By: _____

Employee Signature

Employee Name

NOTICES TO POST

Employers are required to have posted in an area accessible and conspicuous to all employees the notices outlined in the following listing. The notices are required by both state and federal regulations.

You may obtain copies of these required notices from the local offices of the state and federal government. However, please do not rely on any advice or information which anyone at these various agencies provides to you concerning compliance with laws and regulations without also obtaining the advice of a labor attorney. The information provided by these agencies may not be accurate legal advice.

1. California Industrial Welfare Commission Orders 1 through 17 to be updated each time there is a revision or on January 1st of each new year;
2. Federal minimum wage and maximum hours [U.S. Department of Labor];
3. California minimum wage [Division of Labor Standards Enforcement];
4. California Department of Fair Employment and Housing Notice entitled "Discrimination in Employment is Prohibited by Law" [Department of Fair Employment and Housing];
5. Federal Equal Employment Opportunity Commission Notice [Equal Employment Opportunity Commission];
6. The Federal Age Discrimination in Employment Notice [Equal Employment Opportunity Commission];
7. Each employer must post a notice of the regular payday and the time and place of payment. [Division of Labor Standards and Enforcement];
8. Every employer is required to post a notice identifying the current workers' compensation insurance carrier or other entity that is responsible for claims adjustment. [Obtain from your workers' compensation insurance carrier];
9. Each employer must post in a conspicuous place the following pursuant to California Administrative Code Section 9883:

"Your employer or its insurance carrier may not be liable for the payment of Workers' Compensation benefits for any injury which arises out of an employee's voluntary participation in any off-duty recreational, social or athletic activity which is not part of the employee's work related duties."

10. Each employer must post California notices concerning unemployment insurance and disability insurance (Form DE1857A Rev. 28) and advise employees of their rights by distributing a pamphlet entitled "Disability Insurance Provisions" (Form DE2515). [California Employment Development Department-check phone book for local office];

11. Each employer must post at least ten (10) days before a statewide election a notice regarding time off for voting;

12. Each employer must post the notice regarding the Employee Polygraph Protection Act issued by the Wage and Hour Division of the United States Department of Labor [U.S. Department of Labor];

13. Every employer must post the notice entitled, "Safety and Health Protection on the Job." [U.S. Department of Labor];

14. The State of California requires employers to post warning notices pursuant to Proposition 65 and the Health and Safety Code whenever a business "exposes" someone to chemicals known to cause cancer or reproductive harm. [California Health and Safety Code];

15. Each employer must post the notice concerning the Americans with Disabilities Act (ADA). [Equal Employment Opportunity Commission];

16. Each employer must post the amended poster prepared by the Department of Fair Employment and Housing which provides information relating to the illegality of sexual harassment. [Department of Fair Employment and Housing];

17. Each employer must post the notice entitled, "Whistle Blower Rights and Responsibilities." [California Labor Code Section 1102.5];

18. Each employer must post the notice regarding the California Paid Family Leave Act (Notice effective 7/1/04). [Employment Development Department];

19. Emergency phone numbers [Title 8, California Code of Regulations, Construction Safety Orders section 1512];

20. No smoking signage [Labor Code Section 6404.5(c)(1).

21. Log and summary of occupational injuries and illnesses [Title 8, California Code of Regulations, Division of Labor Statistics and Research Sections 14300 et seq.];

22. California pregnancy disability leave, DFEH notice A;

23. Federal and state family and medical leave, CFRA DFEH notice B and FMLA U.S. Department of Labor form WH 1420.

PLEASE SEE CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS WEBSITE
AT WWW.DIR.CA.GOV/WP TO ORDER MOST OF THE ABOVE NOTICES ONLINE,
E-MAIL OR FAX.

U.S. DEPARTMENT OF LABOR (818) 240-5274
300 So. Glendale Avenue, Suite 400
Glendale, California 91205

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT & HOUSING (213) 439-6799
611 West Sixth Street, Suite 1500
Los Angeles, California 90017

DIVISION OF LABOR STANDARDS ENFORCEMENT (213) 620-6330
320 West Fourth Street, Suite 450
Los Angeles, California 90013

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (213) 894-1000
Roybal Federal Building
255 East Temple Street, 14th Floor
Los Angeles, California 90012

CALIFORNIA CHAMBER OF COMMERCE (800) 331-8877
May be of assistance in obtaining some of the
above notices.

California Department of Fair Employment & Housing Fact Sheet

EMPLOYMENT INQUIRIES

WHAT CAN EMPLOYERS ASK APPLICANTS AND EMPLOYEES?

The Department of Fair Employment and Housing has developed this guide to provide employers with guidance relating to inquiries that can be made to applicants and employees.

The California Fair Employment and Housing Act (FEHA) prohibits any non-job-related inquiries of applicants or employees, either verbally or through the use of an application form, that express, directly or indirectly a limitation, specification or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, or any intent to make such a limitation, specification, or discrimination.

The regulations of Fair Employment and Housing Commission indicate that inquiries that, directly or indirectly, identify an individual on a basis enumerated in the Act are **unlawful**. However, it is not unlawful for an employer to collect applicant flow data and other record keeping data for statistical purposes. Misuse of this data constitutes a violation of the Fair Employment and Housing Act.

APPLICANTS

The FEHA also prohibits an employer from requiring any medical or psychological examination or inquiry of any applicant or to make any inquiry whether an applicant has a mental or physical disability or medical condition. It is also unlawful to make an inquiry regarding the nature and severity of a mental or physical disability or medical condition. However, an employer may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant's request for reasonable accommodation.

Once an employment offer has been made to an applicant, but prior to the commencement of employment duties, an employer may require a medical or psychological examination provided that:

- the examination or inquiry is job-related and consistent with business necessity and;
- that all entering employees in the same job classification are subject to the same examination or inquiry.

EMPLOYEES

An employer may not require any medical or psychological examination or make any inquiry of an employee, or inquire whether an employee has a mental or physical disability or medical condition or inquire into the severity of the disability or condition.

However, an employer may require any medical or psychological examination or make inquiries that it can show are job-related and consistent with business necessity. An employer may conduct voluntary medical examinations, including medical histories, which are part of an employee health program available to the employee at the work site.

The Employment Inquiries table is a guide and is not intended to be an exhaustive list of all acceptable and unacceptable inquiries. Those questions considered unacceptable are likely to limit the employment opportunities of persons protected by the Fair Employment and Housing Act.

EMPLOYMENT INQUIRIES

ACCEPTABLE	SUBJECT	UNACCEPTABLE
Name	NAME	<ul style="list-style-type: none"> • Maiden name
Place of residence	RESIDENCE	<ul style="list-style-type: none"> • Questions regarding owning or renting.
Statements that hire is subject to verification that applicants meet legal age requirements.	AGE	<ul style="list-style-type: none"> • Age • Birth date • Date of attendance/completion of school • Questions which tend to identify applicants over 40
Statements/inquiries regarding verification of legal right to work in the United States.	BIRTHPLACE, CITIZENSHIP	<ul style="list-style-type: none"> • Birthplace of applicant or applicant's parents, spouse or other relatives. • Requirements that applicant produce naturalization or alien card prior too employment.
Languages applicant reads, speaks or writes if use of language other than English is relevant to the job for which applicant is applying.	NATIONAL ORIGIN	<ul style="list-style-type: none"> • Questions as to nationality, lineage, ancestry, national origin, descent or parentage of applicant, applicant's spouse, parent or relative.
Statement by employer of regular days, hours, or shifts to be worked.	RELIGION	<ul style="list-style-type: none"> • Questions regarding applicant's religion. • Religious days observed.
<p>Name and address of parent or guardian if applicant is a minor.</p> <p>Statement of company policy regarding work assignment of employees who are related.</p>	SEX, MARITAL STATUS, FAMILY	<ul style="list-style-type: none"> • Questions to indicate applicant's sex, marital status, number/ages of children or dependents. • Questions regarding pregnancy, child birth, or birth control • Name/address of relative, spouse or children of adult applicant.
	RACE, COLOR, SEXUAL ORIENTATION	<ul style="list-style-type: none"> • Questions to applicant's race, color, or sexual orientation. • Questions regarding applicant's complexion, color of eyes, hair or sexual orientation.
	CREDIT REPORT	<ul style="list-style-type: none"> • Any report which would indicate information which is otherwise illegal to ask, e.g , marital status, age, residency, etc.
Statement that a photograph may be required after employment.	PHYSICAL DESCRIPTION, PHOTOGRAPHS, FINGERPRINTS	<ul style="list-style-type: none"> • Questions as to applicant's height/weight. • Requiring applicant to affix a photograph to application or submit one at his/her option. • Require a photograph after interview but before employment.
<p>Employer may inquire if applicant can perform job-related functions.</p> <p>Statement that employment offer may be made contingent upon passing a job-related mental/physical examination.</p>	MENTAL/PHYSICAL DISABILITY, MENTAL CONDITION (APPLICANTS)	<ul style="list-style-type: none"> • Any inquiry into the applicant's general health, medical condition, or mental/physical disability. • Requiring a psychological/medical examination of any applicant.

A medical/psychological examination/inquiry may be made as long as the examination/inquiry is job-related and consistent with business necessity and all applicants for the same job classification are subject to the same examination/inquiry.	MENTAL/PHYSICAL DISABILITY, MEDICAL CONDITION (POST- OFFER/PRE-EMPLOYMENT)	<ul style="list-style-type: none"> Any inquiry into the applicant's general health, medical condition, or physical/mental disability, if not job-related and consistent with business necessity.
A medical/psychological examination/inquiry may be made as long as the examination is job-related and consistent with business necessity.	MENTAL/PHYSICAL DISABILITY, MEDICAL CONDITION (EMPLOYEES)	<ul style="list-style-type: none"> Any inquiry into the employee's general health, medical condition, or mental/physical disability, if not job-related and consistent with business necessity.
Job-related questions about convictions, except those convictions which have been sealed, or expunged, or statutorily eradicated.	ARREST, CRIMINAL RECORD	<ul style="list-style-type: none"> General questions regarding arrest record.
Questions regarding relevant skills acquired during U.S. military service.	MILITARY SERVICE	<ul style="list-style-type: none"> General questions regarding military service such as dates/type of discharge. Questions regarding service in a foreign military.
Requesting lists of job-related organizations, clubs or professional societies omitting indications of protected bases.	ORGANIZATIONS, ACTIVITIES	<ul style="list-style-type: none"> General questions regarding organizations, clubs, societies and lodges.
Name of persons willing to provide professional and/or character references for applicant.	REFERENCES	<ul style="list-style-type: none"> Questions of applicant's former employers or acquaintances which elicit information specifying applicant's race, etc.
Name and address of person to be notified in case of accident or emergency.	NOTICE IN CASE OF EMERGENCY	<ul style="list-style-type: none"> Name, address, and relationship of relative to be notified in case of accident or emergency.

NOTE: Any inquiry, even though neutral on its face, which has an adverse impact on persons on a basis enumerated in the Fair Employment and Housing Act, is permissible only if it is sufficiently related to an essential job function to warrant its use.

For more information, contact the Department
toll free at: **(800) 884-1684**

TTY Number: **(800) 700-2320**

or visit our Web site at: www.dfeh.ca.gov

This publication can be made available in Braille, large print, computer disk, and tape cassette.

**STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
2218 Kausen Drive, Suite 100
Elk Grove, CA, 95758**



DFEH-161 (8/01)