



Mineral



Question of the Week

December 6, 2023

Question

Are we required to update our I-9s when the documentation used for them expires?

ANSWER

You would only update a Form I-9 if the expired document pertains to a limited period of employment authorization. You should never reverify U.S. citizens and, in most cases, lawful permanent residents (Green Card holders). However, if a lawful permanent resident presents their employer with temporary evidence of lawful permanent resident status for Section 2 (instead of an unexpired permanent resident card), then reverification may be necessary.

We recommend that you set up a tracking system for the I-9s that will require reverification. Consider setting a calendar reminder for 90 days before the expiration of the document or the expiration date listed by the employee in Section 1 of the I-9, whichever is sooner. Then provide the employee with written notice of the need to reverify, the deadline to do so, and the I-9 list of acceptable documents they may use for reference.

Once the employee has presented acceptable documents, you should review and complete the reverification section of the Form I-9 (Supplement B of the Form I-9 version dated 8/1/23).

If the Form I-9 version that the employee originally completed is no longer valid, complete Supplement B of the Form I-9 version dated 8/1/23 to reverify the employee. To do this, an employer should:

- Enter the employee's name at the top of each Supplement B page you use (and use the New Name field to record any name change the employee reports at the time of reverification or rehire);
- Use a new section of Supplement B for each instance of a reverification or rehire;
- Use the Additional Information fields if the employee's documentation presented for reverification requires future updates; and
- Sign and date that section when completed and attach it to the employee's completed Form I-9.

This Q&A does not constitute legal advice and does not address state or local law.