

U.S. Department of Justice

Civil Rights Division

*Office of Special Counsel for Immigration-Related
Unfair Employment Practices*



Look At The Facts. Not At The Faces.

Your Guide To Fair Employment



What Do You Need to Know About INA?

The Immigration and Nationality Act (INA), which the Immigration Reform and Control Act of 1986 (IRCA) amended, requires that you, as an employer, verify the identity and work eligibility of every employee hired after November 6, 1986. It is now illegal to knowingly hire anyone who is not authorized to work in the United States. As part of this process, you must complete the Department of Homeland Security's Form I-9 for all your employees—citizens and noncitizens alike. Failure to comply with the I-9 requirements may result in sanctions against you.

Congress recognizes that these employer sanctions might unintentionally discourage you from hiring workers who are not U.S. citizens or who appear to be foreign. In order to protect work-authorized individuals, INA also contains provisions prohibiting discrimination in hiring and firing on the basis of citizenship status or national origin. Under these provisions, you must treat all qualified, eligible job applicants equally. Employers found to discriminate may be required to pay fines and penalties, and to hire or rehire employees, with back pay.



How Do You Avoid Immigration-Related Employment Discrimination?

- Treat all people the same when you are announcing the job, taking applications, interviewing, offering the job, filling out the Form I-9, hiring, and firing.
- Avoid "citizens only" hiring policies or requirements that applicants have a particular immigration status, unless required by law.
- Give out the same job information over the telephone and use the same application forms for all applicants.
- Base your decisions about firing on job performance and/or behavior, not on appearance, language, name, or citizenship status of your employees.

How Do You Comply with the Form I-9 Requirements?

- In order to avoid any appearance of discrimination, verify work eligibility **after** you have decided to hire an individual and allow your employee three days to provide the documents.
- Let your employee **choose** which documents to present, as long as they appear to be reasonably genuine.
- Understand that there are many different documents, with different appearances, that your employee may present. You can find a list of these documents on the back of the Form I-9.



How Do You Comply with INA's Hiring Regulations ?

- Hire only those persons that are authorized to work in the U.S.
- Ask all your new employees—U.S. citizens and noncitizens alike—to show documents that establish both identity and work authorization.
- Complete the DHS Employment Eligibility Verification Form I-9 for every new employee .

If You Have Any Further Questions
about Compliance with INA's
Antidiscrimination Provisions, Call
the Office of Special Counsel's
Automated Employer Hotline:

1-800-255-8155

TDD for hearing-impaired: 1-800-237-2515

In the Washington, D.C. area call: 202-616-5594

The Employer Hotline will guide you through the employment verification process, and includes a fax-back feature through which you can receive a Form I-9, a list of acceptable documents and tips on fair hiring. There is also an option to speak with an operator.

or write to OSC at:

U.S. Department of Justice
Civil Rights Division
Office of Special Counsel
950 Pennsylvania Ave., NW
Washington, DC 20530

OSC's e-mail address is:

oscrt@usdoj.gov

to find us on the web, go to:

www.justice.gov/crt/osc



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