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Employment Law Update: End of Form I-9 Flexibility for Employers and New I-9 Form

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The federal government requires employers to use Form I-9 to record verification of each employee's employment eligibility in the United States. During Covid, employers could remotely verify eligibility. In October 2022, [U.S. Immigration and Customs Enforcement](#) ("ICE") announced that **after July 31, 2023, employers would no longer be allowed to remotely examine documents that are required to complete the I-9.**

The October 2022 announcement also stated that, in the future, employers would be required to physically examine employee documents for those employees who were hired on or after March 20, 2022, and for whom the employer has only conducted a remote inspection. It has now been announced that **employers will have 30 days after the July 31st deadline, or until August 30, 2023, to physically examine the documents for these employees.** Employers should take notice of the following:

- All employers must comply with the requirement to physically inspect documents, even if their employees have not yet returned to work in person.
- If an employee refuses to meet for a physical document inspection, the employer cannot retain the employee.
- An employer whose employees work across the country and not just in one location is not required to have the same person who originally performed the remote inspection perform the in-person inspection but can choose an authorized representative to complete the in-person inspection.

Employers should make a list of employees whose I-9 documents need to be examined in person and put a plan in place to ensure they are inspected by the August 30, 2023, deadline.

New I-9 Form

U.S. Citizenship and Immigration Services (USCIS) has [announced a new version of Form I-9](#), Employment Eligibility Verification. It is only one page long and should be easier for employers and employees to use. Other improvements include clearer instructions and providing guidance on acceptable receipts and the auto-extension of some documents found on the [Lists of Acceptable Documents](#).

Employers may begin using [the new edition](#) on Aug. 1, 2023, but may continue to use the [2019 version](#) of the form through Oct. 31, 2023. Beginning **Nov. 1, 2023**, only the new Form I-9 dated "08/01/2023" may be used. The version date can be found in the lower-left corner of the form.

TAKEAWAY: Employers must be aware of changes in Form I-9 requirements to ensure they comply with the federal government's employee verification process. If you are an employer and need help navigating the employee verification and employment eligibility process or any other federal or New Jersey employment law, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law](#) Team.

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Practice

- Employment Law