I-9 Form Requirements and Process

Department of Human Resources
I-9 Form Requirements

- It is unlawful to knowingly hire, recruit, or refer for a fee an unauthorized alien.
- Employers are responsible for ensuring the completion of the I-9.
- Employers must verify the employment eligibility and identity of all employees.
Who needs to complete an I-9 form?

- An Employment Eligibility Verification Form (I-9) must be completed by all new employees. The Departments listed below are responsible for certifying I-9 forms for the following employee types:
  - Full-time Teaching and Research Faculty: Academic Affairs
  - Adjunct Faculty: Academic Affairs or Authorized Departments
  - Academic Affairs Support Staff (4031): Academic Affairs or Authorized Departments
Who needs to complete an I-9 form?

- An Employment Eligibility Verification Form (I-9) must be completed by all new employees. The Departments listed below are responsible for certifying I-9 forms for the following employee types:
  - Non-Instructional Part Time Faculty
    - Human Resources
  - Faculty Administrators
    - Human Resources
  - Classified and hourly staff
    - Human Resources
  - Student Workers and Graduate Assistants
    - Student Employment or Authorized Departments
Who needs to complete an I-9 form?

- An Employment Eligibility Verification Form (I-9) must be completed by all new employees. The Departments listed below are responsible for ensuring the completion of I-9 forms for the following employee types:

  - International Faculty, Staff, and Students
  - Visa & Immigration Service Advising
I-9s must be maintained separately from official personnel files and access to these files should be limited. The Departments listed below are responsible for file maintenance of I-9 forms for the following employee types:

- Faculty Administrators: Human Resources
- Full-time Teaching and Research Faculty Affairs: Human Resources
- Adjunct Faculty: Academic Affairs
- Academic Affairs Support Staff (4031): Academic Affairs
File Maintenance

- I-9s must be maintained separately from official personnel files and access to these files should be limited. The Departments listed below are responsible for file maintenance of I-9 forms for the following employee types:
  
  - Non-Instructional Part Time Faculty
    - Human Resources
  
  - Classified and hourly staff
    - Human Resources
  
  - Student Employee and Graduate Assistants
    - Student Employment
  
  - International Faculty, Staff, and Students
    - Visa & Immigration Service Advising
Visa & Immigration Service Advising retains the original I-9s for all international Faculty, Staff, and Students, and sends copies to the departments listed on the previous slides for their assigned employee types for secondary record maintenance.
Accessing Forms

- Make sure you are using the most recent versions (Rev. 7/17/17). The 7/17/17 form can be found on the ODU Human Resources Web site: http://www.uscis.gov/files/form/I-9.pdf

- There are now **two** options in completing the I-9 form.
  
  - The form can be completed electronically by the new employee and the certifier and then printed for signature.
  
  - The form can be printed and then completed on standard **white** paper.

- The Instructions and List of Acceptable Documents **must** be made available to all employees completing the I-9 form. (This is the same list of documents that stipulate what is used for identification and work eligibility.)

- Only the I-9 form itself, which has been completed by the employee and employer, need to be retained.
Section 1 of the 1-9 Form

- Employee must complete this section by the end of his first day of work.
- The Preparer and/or Translator Certification box must be completed by the employee.
- If the employee needs assistance to complete the I-9, the preparer and/or translator must complete and sign the certification section.

- Only use blue or black ink
- Do not use whiteout. If a mistake occurs during completion of the I-9 form, have the employee cross out the error, initial and date it and insert the correct information.
- The ODU representative may not correct errors or omissions in Section 1
Section 2 of the I-9 Form

• Employers must complete Section 2 and enter E-Verify* within three business days from the employee’s first day of work.
  – Departments must complete Section 2 on the employee’s first day and forward the form by the second day to Student Employment/ Academic Affairs/Visa & Immigration Service Advising/Human Resources. These offices will access E-verify by the third business day to complete the verification process.

* E-Verify; an internet-based system that allows an employer to determine if the eligibility of an employee to work.
Section 2 of the I-9 Form
Continued

• List A includes all documents that establish both the employee’s identity and employment eligibility. List A documents include:
  – Unexpired U.S. passport
  – Unexpired foreign passport with I-551 stamp
  – Permanent resident card
  – Unexpired employment authorization document which includes a photograph (Form I-766)

• Again, Only use blue or black ink. Do not use whiteout. If a mistake occurs during completion of the I-9 form, the ODU representative completing the form must cross out the error, initial and date it and insert the correct information.
Section 2 of the I-9 Form (continued)

If the employee does not have a list A document, then they must show two documents, one from list B and one from list C.

- All documents must be unexpired.
- Examples of the combination of the two documents include:
  - Virginia driver’s license and social security card that does not have a notation at the top requiring DHS work authorization
  - Military dependent’s ID card and U.S. birth born abroad certification
- Documents from list B must contain a photo (which is clearly identifiable)

- Employers must strictly observe the requirement that the employer must complete the I-9 form within three business days; this is the only area of I-9 compliance that cannot be corrected once violated.
Acceptable Documents

• Employers must accept documents if they reasonably appear to be genuine, and to relate to the presenting individual.

• If a document appears questionable, the employer should ask for another document. If the employee cannot produce a document that appears genuine, he/she should be discharged.

• If an employee initially presents a “false” document, then receives proper documentation, the employer is not required to discharge the employee. However, the employer must correct the I-9 form.
Unacceptable Documents

• Don’t accept laminated social security cards if they read “not valid if laminated” on the back.

• No Computer print-outs from the Social Security Administration; an employee must present his official Social Security card.
  – See Receipt Information on next slide

• Don’t accept photocopies of documents, except for a certified copy of a birth certificate.
Accepting a Receipt

• Receipts can be accepted for lost, stolen, or damaged documents only.
• If the employee cannot provide the document necessary for Section 2, the employee can present a receipt showing that the employee applied for the proper document.
  – You will enter the word “Receipt” followed by the title of the receipt in Section 2 under the list that relates to the receipt.
• “Receipt rule” does not apply to expired documents!
• The employee must present the replacement document within 90 days of the first day of work.
• Exceptions:
  – I-94 with a picture and an unexpired I-551 stamp (for Permanent Residents)
  – I-94 with a unexpired refugee admission stamp
Photocopying Documents

• Federal and state guidelines state that “employers **must** photocopy the employee’s verifying documents and retain the copy with the I-9 form”.
Let’s Complete the Form!
Do not complete Section 1 for employees.

Do not ask for any documentation for Section 1.

Make sure all information is provided. If not applicable, please put NA.

Corrections to Section 1 can only be made by the employee, initialed and dated.
Preparer and/or Translator Certification

- A **Translator or Preparer** may complete Section 1 for the employee if the employee is physically impaired or otherwise unable to complete Section 1 without assistance.
- The appropriate box must be checked whether or not a translator or preparer was used.
- The employee must still sign and date the I-9.
• Print the name of the employee from Section 1
• Enter the number of the citizenship or immigration status checkbox the employee selected
• Provide employee a list of acceptable documents (on the back of the I-9 form).
• Original documents must be provided, except for certified copies of birth certificates.
• Make sure document, issuing authority and document number are recorded on correct lines.
• Do not over-document List A or List B & C (considered document abuse).
• Expiration dates of documents must be written in month/day/year format (Example: mm/dd/yyyy).
• If the document used does not have a document number or expiration date, enter NA in the field.
List A

List A includes documents that verify both identity and employment eligibility.

If a document from List A is provided, no other documents are needed.
List A

If the employee is an alien authorized to work, they only need to complete **ONE** option between 1-3.

The I-94 or I-551 number must match information in the work authorization box in Section 1.

Record one document not documents from all three.
List B and List C

List B documents verify identity and List C documents verify employment eligibility.

The employee must provide one item each from List B and List C.

List B document must contain a photo (which should be clearly identifiable).

List B and List C are used only if the employee does not have a document from List A.
Section 2 - Certification Section

- This section must be completed, signed and dated by the ODU Representative that verified the employee’s documentation.

- Be sure to fill in the date employment begins, complete business name (Old Dominion University) and address (5115 Hampton Blvd., Norfolk, VA 23529) and the name and title of the ODU Representative certifying the form.
Read, fill in the information (including the date employment begins) in the certification section, sign and date. If the form was completed electronically, print, sign and date.

Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): 03/01/2023 (See instructions for exemptions)

<table>
<thead>
<tr>
<th>Signature of Employer or Authorized Representative</th>
<th>Today's Date (mm/dd/yyyy)</th>
<th>Title of Employer or Authorized Representative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Name of Employer or Authorized Representative</td>
<td>First Name of Employer or Authorized Representative</td>
<td>Employer's Business or Organization Name</td>
</tr>
<tr>
<td>5115 Hampton Blvd</td>
<td>Norfolk</td>
<td>VA 23529</td>
</tr>
</tbody>
</table>
Section 3. Updating I-9 Forms

- If an employee’s name has changed, the employee must submit a copy of a new Social Security Card to the appropriate ODU department maintaining his/her I-9.
  - NOTE: A copy of the new social security card must also be sent to Student Employment/Human Resources so that the employee’s personnel records can be changed to the new name.

- The ODU department maintaining the employee’s form will complete Section 3 for all updates (name changes, rehires,** ) using the employee’s original I-9 form on file. (**See next slide regarding rehires.)
  - Visa & Immigration Service Advising will complete Section 3 for recertification of expired employment authorization using the employee’s original I-9 form on file.
Rehiring Employees

- If an employee is rehired within three years of the date his/her original I-9 Form was completed, **AND** the original I-9 Form is unexpired, Section 3 on the original form may be completed.
  - If the original I-9 Form is expired, a new I-9 Form **MUST** be completed.
Employment Type Changes

- If an employee moves from one employment type to another (i.e. a student employee moves to an hourly employee position), a copy of the original I-9 should be obtained by the department processing the employment type change. It should be noted in the “additional information box” that the original was certified when the employee was hired in his/her previous position.
REASONS AN I-9 WILL NOT BE CERTIFIED

- An old version of the I-9 form is used (prior to 08/31/19).
- The I-9 form is filled out using pencil or ink other than blue or black.
- Signature, date and Sections II (except for the business address) and III are typed.
- The I-9 form is a fax or copy.
- Any applicable portion of Section 1 is left blank
  - address is not their home address (i.e. work address)
  - no date of birth
  - no social security number
  - not checking off the work authorization box
  - not entering Alien or Admission numbers when needed
  - not entering the work eligibility expiration date when needed
  - missing employee’s signature or date
- Transposing the date of signature with the date of birth
ADDITIONAL REASONS AN I-9 WILL NOT BE CERTIFIED

Section 2

- Lack of issuing authority, document # or expiration dates, when needed
- List B filled in only or List C filled in only (Remember, it must be B + C)
- Lack of date employee began work
- Lack of signature, printed name, title, business/organization name, and date the employer signs
Making Corrections to Non-Compliant I-9’s

• For I-9s that an employer finds to be lost, destroyed, or non-compliant, do one of the following:
  
  (1) Create new, correct I-9 Forms for each affected employee and attach to old I-9 Forms
  
  OR

  (2) Make *conspicuous* corrections on the originally non-compliant I-9 Form.
     – Make correction(s) by crossing out with a line, then date and initial. Do **not** use white out. Do not obliterate.

• Always enter the **current** date the I-9 is being completed by the employee and the authorized representative. **Never** back date the I-9 form.
Inspection of I-9 Forms

• I-9 forms must be made available upon request from the U.S. Immigration and Customs Enforcement, the Department of Labor, or the Justice Department’s Office of Special Counsel for Unfair Immigration-Related Employment Practices. They must also be made available to Auditors for the Commonwealth of Virginia or Old Dominion University.

• The officer who inspects will provide the employer with at least three days notice.

• The employer may request an extension of time to produce his I-9 forms.

• The employer should not expect the officer to produce a warrant or subpoena before inspection.

• NOTE – The Department of Human Resources will conduct UNANNOUNCED audits of departments maintaining I-9s on a quarterly basis.
Penalties for Prohibited Practices

- Fine of not less than $100 and not more than $1,100 for each employee for whom the I-9 Form was not properly completed, retained, and/or made available for inspection.
- Fines up to $3,000 per employee and/or 6 months imprisonment for knowingly hiring or continuing to employ unauthorized aliens.
- Unlawful discrimination: $275 - $11,000 fine
- Document fraud: $275 - $5,500 fine
- In some cases, managers can be charged with felonies
Anti-Discrimination Provisions

• Employer cannot request that an employee present more or different documents than are required.
• Employer cannot refuse to honor documents which reasonably appear to be genuine and to relate to the person presenting them.
• The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.
For More Information…………

• ODU Policy 6027 – Employment Eligibility and Verification: www.odu.edu/ao/polnproc

• Additional instructions and examples of documents can be found in the U.S. Department of Homeland Security Handbook for Employers at their Web site: http://www.uscis.gov/files/form/m-274.pdf
Avoid Common Errors

- To avoid discrimination penalties in an USCIS audit, do not keep copies of the I-9s in employees’ personnel files. File the originals separately from all other records.
- Retain I-9s for all active employees.
- Purge and destroy I-9s for terminated employees as follows: “retain completed I-9s for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.”
- If an employer has incorrect I-9s on file that could have been destroyed, but weren’t, the employer can still be fined in an USCIS audit.
When in doubt…….

- If you have questions or need assistance, contact the following departments:
  - **Academic Affairs**
    - Dan Hennelly, ext. 4559
  - **Student Employment (E1-S Processing)**
    - Brenda Blount, ext. 5399
    - Tiffani Gray, ext. 3037
  - **Human Resources**
    - Pam Harris, ext. 5131
  - **Visa & Immigration Service Advising**
    - Robbin Fulmore, ext. 4726
    - Shirley Herline, ext. 4756
Citations

Parts of this presentation were adapted from materials provided by the U.S. Citizenship and Immigration Services, the Human Resources Department of James Madison University and the College of William and Mary/Kaufman and Canoes Attorneys and Counselors at Law (Heather A. Mullen, Esq. and Readlyn Mendoza, Esq.)

February, 2009
Department of Human Resources
Old Dominion University