

How To Navigate Employment Verification Requirements During COVID-19

The Department of Homeland Security (DHS) has relaxed the employment verification requirements with COVID-19 and social distancing requirements for employers who are operating solely remotely. Specifically, DHS will exercise discretion with the physical inspection requirement of the employee's identity and employment authorization documents by allowing the employer to inspect the Section 2 documents remotely (via video link, fax, or email as examples). DHS advises in their guidance "employers also should enter 'COVID-19' as the reason for the physical inspection delay in the Section 2 Additional Information field once physical inspection takes place after normal operations resume. Once the documents have been physically inspected, the employer should add "documents physically examined" with the date of inspection to the Section 2 additional information field on the Form I-9, or to section 3 as appropriate. These provisions may be implemented by employers for a period of 60 days from the date of this notice OR within 3 business days after the termination of the National Emergency, whichever comes first remote inspection."

DHS further instructs that "once normal operations resume, all employees who were on-boarded using remote verification, must report to their employer within three business days for in-person verification of identity and employment eligibility documentation for Form I-9, Employment Eligibility Verification. Once the documents have been physically inspected, the employer should add 'documents physically examined' with the date of inspection to the Section 2 additional information field on the Form I-9, or to section 3 as appropriate. Any audit of subsequent Forms I-9 would use the "in-person completed date" as a starting point for these employees only."

Remember that this relaxed employment verification requirement only applies to companies who are operating remotely. All employees who require their employees to be physically present at the workplace must still comply with the in-person physical inspection.

Munsch Hardt Kopf & Harr is continually monitoring immigration and I-9 verification requirements related to COVID-19 and will send out additional information as pertinent updates occur. In the interim, please contact one of our immigration attorneys if you have any questions or need additional information.



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