

**NC A&T State University  
Human Resources**

**I-9 Employment Eligibility and Verification Policy**



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| Authority<br><b>Board of Trustees</b>                              |
| Title<br><b>I-9 Employment Eligibility and Verification Policy</b> |
| Responsible Office<br><b>Human Resources</b>                       |
| Subject<br><b>Form I-9 Guidelines and Regulations</b>              |
| Applies to<br><b>Staff, Faculty and Students</b>                   |

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**Additional References:** E-Verify Program; Acceptable Documents for Form I-9 Processing

**Related Policies:** Policies for EPA Non-Faculty; State Personnel Manual, Section 5

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## Introduction

This manual describes North Carolina Agricultural and Technical State University (NCA&TSU) procedures for ensuring continued compliance with the Immigration Reform and Control Act of 1986 (IRCA), as amended.

### Employment Eligibility Verification Form I-9 (I-9)

#### INA and IRCA

The Immigration and Nationality Act (INA) as amended by the Immigration Reform and Control Act of 1986 (IRCA) was the first federal law making it **illegal for employers to knowingly hire persons who are not authorized to work in the United States**. The IRCA requires employers to have all employees hired after November 6, 1986 complete Section 1 of Form I-9 no later than the first day of employment, examine original document(s) to establish identity and work eligibility by the end of the third day of employment. Federal law requires employers to follow uniform procedures.

**HIRED** = Employee's actual commencement of employment for wages or other remuneration. The employee must complete Section 1 of the Form I-9 by the date of hire (i.e. no later than the date on which employment services start).

To comply, employers must

- Hire only persons authorized to work in the United States
- Require all new employees to show documents that establish both identity and work authorization. Allow employees to show you documents of their choice – **the employer can not ask for specific documents or for more documents than required**
- Complete the **I-9** for **every** new employee – U.S. citizens and noncitizens. **The instructions must be provided to all employees completing the form.**

**Note: The offer of employment must be accepted before the employee completes the I-9 form.**

Employers who fail to complete the I-9 or who hire or continue to employ workers they know are unauthorized to work in the United States may be subject to civil and, in certain cases, criminal penalties.

#### Protection from Discrimination

The Form I-9 process may not be used to pre-screen employees for hiring. Furthermore, an employer may not demand more or different documents than an employee chooses to present, provided that the documents presented are acceptable under the Form I-9 requirements. An employer may not demand documents issued by the Department of Homeland Security in lieu of other acceptable document(s) from List(s) A or B and C and may not consider the fact that work authorization documents have future expiration dates as cause for not hiring or for terminating employment.

**Since inspections of I-9 Forms by government agencies can result in the imposition of substantial fines against the University, it is crucial that all I-9s be completed according to the procedures outlined.**

For answers to specific questions, please contact the Foreign National Administrator in Division of Human Resources.

## **I-9 Processing through E-Verify**

The State of North Carolina is a participant in the E-Verify program established by the Department of Homeland Security (DHS) and the Social Security Administration (SSA) to aid employers in verifying the employment eligibility of all newly hired employees. As an agency of the State, North Carolina A & T State University utilizes the E-Verify system for I-9 processing. Our participation in the program does not exempt us from the obligation to complete a Form I-9 for everyone we hire (student and employees).

### **Basic Overview of the E-Verify**

E-Verify is an Internet-based system operated by USCIS in partnership with SSA. E-Verify is currently free to employers and is available in all 50 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands. E-verify electronically compares information contained on the Employment Eligibility Verification Form I-9 (herein Form I-9) with records contained in SSA and Department of Homeland Security (DHS) databases to help employers verify identity and employment eligibility of newly hired employees. Although participation in E-Verify is voluntary, employers must consent to certain conditions as provided in the E-Verify User Manual.

### **Notifying Prospective Employees of the Universities E-Verify Participation**

As an employer participating in E-Verify, we are required to post the notice provided by DHS indicating the University's participation in the program, as well as the antidiscrimination notice issued by the office of Special Counsel for Immigration-Related Unfair Employment Practices, in an area that is clearly visible to newly hired employees.

**In instances where posting the notices is not beneficial (i.e., employee orientation) we must verbally inform the new hire of our participation and identify the areas where the notices are posted or print the notices and ensure that all employees receive with the I-9 form, prior to completing the form.**

### **Preventing Discrimination: *The E-Verify Rules of Use***

It is important that we follow the E-Verify Rules of Use very carefully:

- Employers may not use the system to pre-screen applicants for employment.
- The employee must be newly hired and the Form I-9 completed before the employer initiates a verification query.
- Employers may not verify selectively, and must follow E-Verify procedures for all new hires.
- Employers must perform a verification query within 3 business days of hiring a new employee.
- Employers may accept only those List B identity documents that contain a photograph.
- Employers may not use the system to re-verify employment authorization.
- Employers must provide employees with an opportunity to challenge Tentative Non-Confirmation responses and may not take adverse action against an employee while the case is being resolved.
- Employers may not verify employees hired before the company signed the Memorandum of Understanding (MOU) with DHS and SSA.

### **Protecting Passwords**

E-Verify system user will receive a User ID and password.

For security purposes, passwords need to be protected. You should not:

- Share your password with anyone, or
- Post or write down your password where it can be viewed by others.

If you attempt to log on with an incorrect password three times, the system will lock your user account. If this happens, contact your Program Administrator (Belinda Smith - Human Resources) who is able to unlock your user account.

## **I. Policy**

North Carolina Agricultural and Technical State University (“North Carolina A & T State University,” “the University,” or “NCA&TSU”) is committed to complying with federal laws and regulations concerning verification of employment eligibility and record keeping for employees hired to work in the United States. To this end, certain members of NCA&TSU staff have been designated to assist the University in such compliance. Anyone with questions regarding any aspect of employment and/or identity verification should contact the appropriate Human Resources employment office (i.e., SPA, EPA, Temporary, Student, and Foreign National).

The Division of Human Resources will offer annual training and conduct periodic internal audits, as the University deems necessary.

NOTE: The processing authority for I-9 forms is subject to change upon centralizing all form completion through the Division of Human Resources. The University community will be informed in advance of this transitional change.

## II. Summary of Steps

***SPECIAL NOTE REGARDING TRACKING NONIMMIGRANT WORK STATUS: STATUS IN THE U.S. IS NEVER GOVERNED BY A VISA. INSTEAD, THE I-94, EMPLOYMENT AUTHORIZATION DOCUMENT (EAD) CARD, ETC. ARE EVIDENCE OF LAWFUL NONIMMIGRANT WORK STATUS.***

### **Processing Steps:**

1. Employee fully completes Section 1 of the Form I-9, signs, dates, and submits it in person to the appropriate NCA&TSU representative on or before the first day of employment. The first day of employment is the actual day the individual begins to earn compensation with NCA&TSU, regardless of the appointment or hiring dates.
2. NCA&TSU representative refers employee to the list of acceptable documents on the back of the I-9 Form and advises him or her to present either one original document from List A *OR* one original document from List B and one original document from List C. In carrying out this step, the NCA&TSU representative **does not tell the employee which documents to present or which documents are preferable.**
3. NCA&TSU representative examines the original documents provided by the employee to verify that they are on the list of acceptable documents (as mandated under the E-Verify program), that they appear genuine and relate to the employee, and that they represent evidence of the employee's unexpired employment eligibility. Employee must be physically present when Section 2 is being completed. The NCA&TSU University representative completes Section 2.
4. NCA&TSU representative fully completes Section 2 "Employer Review and Verification" with the pertinent information from the employee's documents, including document numbers, issuing authority and expiration dates, if any.
5. NCA&TSU representative signs, dates and completes Section 2 "Employer Certification" including the date of employment, job title, and the complete name and address of the University.
6. NCA&TSU representative photocopies the front and back of each document reviewed in completing the I-9 Form and securely attaches the copies to the form.
7. NCA&TSU Human Resources (HR) must process the new employee's I-9 information through the E-Verify system by the end of the third day of employment for confirmation of employment eligibility. If the employee is not cleared through E-Verify the HR representative will follow the appropriate steps as outlined in the E-Verify User Manual. If HR receives a final non-confirmation the appropriate notice to terminate will be provided to the employee, department and Payroll.
8. NCA&TSU representative records expiration information for foreign nationals (non-citizens), if any, for follow-up and sends the I-9 with attached documentation to the Foreign National Administrator for processing.
9. NCA&TSU Division of Human Resources reviews documentation and enters the employment eligibility dates in tickler system and Banner.
10. NCA&TSU Division of Human Resources files the I-9 Form with attachments alphabetically.

All students employed at North Carolina A & T State University including F-1 status and J-1 (in student category) status will report to the Student Employment Office in the Division of Human Resources to complete the I-9 paperwork. (*Exception: Federal Work Study students must report to the Office of Financial Aid to complete their paperwork.*)

*Special Note: Consistent with applicable law, the University will defend and indemnify, in a civil action, all employees completing Forms I-9 in good faith and with lawful intent within the scope of their employment duties.*

### III. I-9 Section 1, Employee Information and Verification

#### A. Section 1 of Form I-9

Federal regulations require that **all employees**, including those hired on a temporary basis, **must complete Section 1 on or before the first day of employment.**

Employees must attest to their status by checking the applicable box indicating that they are:

- Citizen/national of the United States (top box),
- Lawful permanent resident with a “green card” (middle box), or
- Alien authorized to work in the United States until a specified date (bottom box).

Employees **must sign and date** this Section of the I-9 when completed.

#### **AVOID these frequent Section 1 errors:**

Failure to...

- Complete Section 1 no later than the **FIRST** day of employment;
- Confirm employee sign and date Section 1;
- Record the “date authorized to work until” and/or “Alien or Admission #” in the attestation block.

The responsible NCA&TSU representative must ensure that the employee has completed every item, sign and dated the form. The representative should also, to the best of his or her ability, ensure that the form has been properly completed. Moreover, when the employee presents the I-9 documents pursuant to the I-9 list, he or she must do so in person (i.e., the employee cannot Fedex, fax or mail the documents).

**North Carolina A & T State University is a participant in the E-Verify Program through the Department of Homeland Security, therefore all employees must provide their social security number in Section 1 of the I-9.**

**Please note, the I-9 procedure must never be conducted before an offer of employment has been made to a candidate and the candidate has accepted the offer.**

#### ***When the Employee is Being Hired for Less Than Three Days***

When the employee is hired for a project that is expected to last less than three days, the **entire** I-9 procedure (both Section 1 and Section 2) must be completed on or before the **employee’s first day of employment.**

#### B. Responsibility of Translator or Preparer

If used by the employee to fill out Section 1, translators or preparers must also sign, date, and provide requested information in the Preparer/Translator Certification Block at the bottom of Section 1. Employers must fill in and sign this block if they have assisted employees in completing this Section.

#### **NOTE**

**Asylees and refugees** are authorized to work indefinitely incident to their status and **may** not have an expiration date to fill in for the bottom box of the attestation block of Section 1 or the **I-9**. A notation should be included that work authorization is indefinite.

## IV. I-9 Section 2, Employer Review and Verification

The **employer (NCA&TSU)** has until the employee's **3<sup>rd</sup> day** of work to process the I-9 form through E-Verify, this includes verification of documents for completing Section 2.

Section 2 requires the employer to list the documents that were produced by the worker to verify his or her identity and employment eligibility. There are three groups of documents that a worker may use for this purpose. These documents are listed on the back of the I-9 as acceptable documents (page 3 of the I-9). Refer to *List of Acceptable Documents* section, for information on deletions and additions to this list.

### A. Documentation for Section 2

On or before the first day of work, the employee must be given the I-9 form (always use the last version of the form) with the list of acceptable documents printed on the back and set of instructions. (See **I-9 Form** with Instructions)

#### 1. Acceptable Documents

The list of documents acceptable for verification of work eligibility and identity can be found on the reverse side of Form I-9.

The employee should be asked to present original documentation as stated:

one List A document – establishes both identity and work authorization

**OR**

one List B document – to establish identity (must bear a photograph)

**AND**

one List C document – to establish work eligibility

The employer can not ask for specific documents or more documents than required. The choice of documents belongs to the employee, even if asked which document to provide, the NCA&TSU representative should restate any one document from List A or any combination of documents from List B and C will be accepted. (See List of Acceptable Documents)

#### **Expired documentation not acceptable**

Documentation must be rejected if it is expired.

**Exception:** An expired U.S. passport (a List A document) and expired List B documents are acceptable.

#### **Original documents required**

The NCA&TSU representative must **personally** review **original** documents that demonstrate an employee's identity and eligibility to work in the U.S. Photocopies, or numbers representing original documents, are not acceptable. All identifying information, including the document title, the issuing authority, the document number, and/or the expiration date (if applicable) must be provided in full.

**Exception: List C, Item 3,** a certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the U.S. bearing an official seal is acceptable.

Exceptions to the requirements stated above are those employees for whom NCA&TSU departments have sponsored H-1, O-1, TN or J-1 nonimmigrant status. Because of

'constructive knowledge,' the employee should present documents related to the visa status requested from the United States Citizenship and Immigration Service (USCIS).

It may be necessary to refer to documents not listed on the reverse side of Form I-9 to understand the employee's work authorization, especially in the case of foreign nationals with temporary work visas. For questions in these cases, contact the Foreign National Administrator in the Division of Human Resources.

## 2. Photocopying Documents

It is the policy of NCA&TSU to make a photocopy of each **original** document presented by the employee for examination to verify employment eligibility and identity. The NCA&TSU representative must photocopy the front and back of each document and staple the photocopies to the I-9 form.

**NOTE:** *Although some documents say on their face that they cannot be copied, you may photocopy such documents for I-9 verification purposes.*

## 3. Standard of Review

The employer must review and accept documents that reasonably appear to be genuine and to relate to the person presenting them (e.g. the name on the Social Security card should be compared to the name on the state driver's license and the photo on the driver's license compared to the appearance of the person who presented the documents).

Employers may reject documents if they do not reasonably appear to be genuine and ask employees who present questionable documentation for other documentation that satisfy the I-9 requirements.

## 4. Failure to Timely Present Documents

Employees who are unable to present acceptable documents should be terminated. The employee should present documents no later than the first day of work; however by law the University can allow the individual until the third day of employment. If the employee cannot present documents establishing work authorization and/or identity by the three business day of beginning employment, the employee and his or her supervisor must be informed immediately that the employee may not continue performing duties or services. The employee may return to work as soon as he or she presents acceptable documents verifying work eligibility and identity.

Employers who choose to retain such employees may be subject to penalties for "improper completion of the form" or for "knowingly continuing to employ" unauthorized workers if such workers are in fact unauthorized.

## 5. Signature and Date: Employers

Employers are **required** to sign and date the bottom of Section 2 and provide all requested information in the **CERTIFICATION** portion. **The personal attestation and signature of the employer are extremely important. The person who actually reviews original documents - must sign and date the Form I-9.**

### **AVOID these frequent Section 2 errors:**

- Failing to record the date the employee began work
- Incorrectly recording the foreign passport title and issuing authority
- Mistakenly recording the US visa numbers and dates for the foreign passport numbers and dates or for the I-94 number and date
- Recording only the foreign passport information and not the additional **required** document information: I-94 and I-551 stamp

- ☑ Allowing a person to use a List B Item and record an I-94 document in the List C column. The I-94 is only acceptable as a supplement to the foreign passport
- ☑ Confuse the USCIS Approval Notice (I-797A), List C Item 7, as an I-94, or vice versa
- ☑ Allowing a person to use a List B Item and record a **restricted** social security card instead of an acceptable item from List C
- ☑ Failing to fill out all document numbers and expiration dates when multiple documents have been presented. For example, when the I-94 does not indicate the “date authorized to work until” and the employee has presented an unexpired employment authorization document (List C, Item 7) as evidence, **all three documents must be recorded**. The foreign passport **and** I-94# are recorded in the List A column and the unexpired employment authorization document in the List C column
- ☑ **Do not use whiteout.** *If a mistake occurs during the completion of the form, cross out the error, initial it, and insert the correct information.*

## 6. Exclusive Documentation

### a. Restricted Social Security Cards

A Social Security card that indicates “**NOT VALID FOR WORK AUTHORIZATION**” on its face cannot be accepted as a work authorization document for I-9 purposes.

A Social Security card that indicates “**VALID FOR WORK ONLY WITH INS AUTHORIZATION**” can be accepted ONLY when presented in conjunction with additional evidence of work authorization. If the employee presents this type of “restricted” Social Security card, the authorized representative must request the employee to provide an USCIS-issued work authorization document—this is an isolated instance where you may ask to see a specific document.

If the employee presents a restricted Social Security card as evidence of work authorization, record this fact in the space under List C in Section 2, along with the pertinent information about the unexpired, USCIS-issued work authorization document, including document title, issuing authority, document number, and expiration date.

If the Social Security card states that it is invalid if laminated, the authorized representative may not accept a laminated card.

### b. Use of Receipts in Completing the I-9

Employees who do not have the required documentation when employment begins **may not submit receipts** showing that they have applied for initial applications for documents or for applications for extension of documents.

An employer may only accept receipts if:

- an individual's document has been lost, stolen, or damaged, then he/she can present a **receipt for the application for a replacement document**. The replacement document must be presented within 90 days of the date of hire or, in the case of reverification; the date employment authorization expires.
- if the employee is actually a citizen or permanent resident he or she can present a receipt for the application for a replacement document. The replacement document must be presented to the Division of Human Resources within 90 days of hire or, in the case of reverification, the date employment authorization expires.
- the individual presents as a receipt, the **arrival portion of the Form I-94** containing an unexpired temporary I-551 stamp (indicating temporary evidence of permanent resident status) and photograph of the individual, such document satisfies the I-9 documentation presentation requirement until the expiration date on the Form I-94. If

no expiration date is indicated, an employer may accept the receipt for one year from the issue date of the I-94 Form.

- a Form I-94 with a refugee admission stamp is acceptable as a receipt for 90 days, within which time the employee must present an unrestricted Social Security card together with a List B identity document, or an Employment Authorization Document (Form I-688B or I-766). To indicate refugee status, the stamp may include a reference to Section 207 of the Immigration and Nationality Act (INA) rather than use the word “refugee.”

The acceptance of a receipt only applies to receipts for replacement documents. A receipt indicating application for initial work authorization or extension of work authorization is not acceptable. (See *Section IV(A)(6)(c), Receipts for Initial Work Authorization*)

**Note:** A receipt is **never** acceptable for employment lasting for **less** than **3** working days.

### Receipt Procedure

1. **Record Document:** The following should be recorded in the appropriate Column in Section 2: the title of the document with the word “receipt”, the document number, if any, and the issuing authority.
2. **Create a Tickler:** The employee has 90 days from the date of hire to present a replacement document or other acceptable document(s). The University maintains a tickler system to ensure the employee brings in the replacement document or other acceptable document(s) within 90 days of hire. [This process will be managed by the FNA.]
3. **Send a Reminder:** A letter and/or e-mail notice will be sent by the Foreign National Administrator to the employee reminding him or her to bring in the original document within 90 days. This will be sent 30 days and 14 days before the expiration of 90 days from the date of hire. A copy should also be sent to the employee’s supervisor to keep him or her apprised of the situation. During the replacement process, employees should be encouraged to provide the new documentation as soon as they receive it.
4. **Replacement Document:** When the employee presents the actual replacement document, a new I-9 should be completed. The I-9 should be completed. The I-9 along with a copy of the documentation should be attached and updated in the tickler system and Banner HR.

### c. Receipts for Initial Work Authorization

A receipt indicating that the individual is applying for initial work authorization is not acceptable for I-9 purposes. The “receipt” rule stated above is applicable to receipts for replacement documents and only applies to persons who are already authorized to work.

### d. Nonimmigrant Work Status

There are several types of nonimmigrant visa statuses that allow foreign nationals to work in the United States on a temporary basis.

**SPECIAL NOTE REGARDING TRACKING NONIMMIGRANT WORK STATUS:**  
STATUS IN THE U.S. IS NEVER GOVERNED BY A VISA. INSTEAD, THE I-94, EMPLOYMENT AUTHORIZATION DOCUMENT (EAD) CARD, ETC. ARE EVIDENCE OF LAWFUL NONIMMIGRANT WORK STATUS.

If the employee chooses to select his or her unexpired foreign passport, he or she must also produce the white Form I-94. The date on the Form I-94 must have a future expiration date and list an immigration status authorizing employment in order to be acceptable as proof of valid work authorization. The University representative must record the title, issuing country, number, and expiration date of the foreign passport in Section 2, List A. The representative must also record the number and expiration date of the I-94 in the second space provided in Section 2, List A. **For I-9 processing, do not copy the visa page in the passport – copy only the passport biographical page(s) and the I-94 card.**

In some limited circumstances, the I-94 card will have a “D/S” (duration of status) rather than an expiration date. In this situation, the employee is in the United States for the duration of his or her status (which sometimes may be extended) and must also produce evidence that he or she is authorized to work for NCA&TSU (e.g., Form DS-2019, I-20ID, EAD card). This evidence will always include an expiration date. *It is this date that should be entered in the second space provided in Section 2, List A.*

Other Nonimmigrant Categories (an unexpired foreign passport is required as part of the List A documents, in addition to the documents listed under each category below):

### **1. H-1B Professional Workers**

#### **Existing H-1 through the University**

The employee should have an I-94 clearly indicating the expiration date of his or her status. In this situation, the number and expiration date on the I-94 should be recorded in Section 2, List A of Form I-9. The employee may also present Form I-797, Notice of Action (Approval Notice). In Section 2, List A of Form I-9, record the document title and number, issuing authority, and expiration date.

#### **New hires in H-1 status, who maintain H-1 status with the former employer**

If the department has filed a change of employer H-1B petition on behalf of the new employee (under the new H-1B portability provision), the employee must present acceptable documentation to complete the I-9, along with proof of filing of the new petition. If the employee presents Form I-797 or the I-94 card of the previous employer, the expiration date listed should be put on the Form I-9 in Section 1. The employee will need to be reverified upon receipt of the NCA&TSU H-1B approval notice. The employee should complete a new I-9 Form as soon as the NCA&TSU H-1B approval notice is received.

### **2. TN Temporary Workers from Canada or Mexico**

The I-94 should clearly indicate “TN” and contain an expiration date for work eligibility at NCA&TSU in the position for which the University petitioned. Record the passport information and Form I-94 number and expiration date in Section 2, List A of Form I-9. Unlike other foreign nations, Canadians may enter the United States for Canada without a passport, and therefore may show a Canadian Driver’s License and either (i) an unrestricted Social Security card or (ii) a Social Security card indicating that it is only valid with INS authorization and an I-94 card. Under these circumstances, the same procedure should be followed with respect to completing the I-9 Form with a driver’s license and social security card.

### **3. J-1 Scholars**

J-1 scholars are authorized to work with a valid passport, I-94 card (which will usually indicate an expiration of D/S (duration of status), and a valid DS-2019 issued by North Carolina A & T State University for a specific academic or research appointment at the University. No other employment is allowed under the Exchange Visitor Program unless approved by the International Students and Scholars Office

(ISSO), 334-7551. **The expiration date of the individual's status is the expiration date on the DS-2019, not the D/S on the I-94 card.**

#### **4. O-1 Individuals of Extraordinary Ability**

The employee should have an I-94 clearly indicating the expiration date of his or her status. In this situation, the number and expiration date on the I-94 should be recorded in Section 2, List A of the I-9 Form. The employee may also present Form I-797, Notice of Action (Approval Notice). In Section 2 on Form I-9, record the document title and number, issuing authority, and expiration date.

#### **5. 'A' Foreign Government Officials and 'G' Representatives to International Organizations**

The principal A-1 or G-1 holders are not allowed to work at NCA&TSU. Dependents in A or G status may be allowed to work with authorization in the form of an Employment Authorization Document card. NCA&TSU does not sponsor or support application procedures for A or G dependents for employment. Obtaining employment authorization is the responsibility of the A or G visa holder through USCIS.

#### **6. Individuals with an Employment Authorization Document (EAD) Card**

There are many circumstances in which someone with an EAD card is authorized to work for NCA&TSU. These include students on optional practical training (F-1 and J-1) and adjustment (adjustment of status for Permanent Residence) applicants.

**CAUTION:** Some nonimmigrant visa classifications, such as H-1B, O-1, and TN, are employer and/or location specific. Therefore, work authorization may not be valid if it relates to a different employer and/or location, unless a Change of Employer H-1B petition has been filed by NCA&TSU on behalf of the employee, as stated above. If the NCA&TSU representative receives an I-94 card with a TN, A, G, etc., status for which the University did not apply, the individual is not authorized to work. In these instances the department should contact the Foreign National Administrator in Human Resources.

**All departments and/or representatives should contact the HR Foreign National Administrator for assistance when questioning the work authorization of a foreign national.**

## **V. I-9 Section 3, Employer Updating and Reverification**

**An employee should not be processed for reverification, rehire (within 3 years of initial I-9 form) or information update through the E-Verify system, only the Form I-9 will need to be updated.**

### **A. Who Must be Reverified?**

***Alien Authorized to Work Until a Specified Date:*** If an employee indicates in Section 1 that he or she is an alien authorized to work until a specified date, then the employee's work authorization must be reverified on or before the date indicated by the employee. If the employee presents an acceptable List A or List C document with an expiration date that conflicts with the date listed in Section 1, please contact the Foreign National Administrator in Human Resources.

***Lawful Permanent Resident:*** Reverification is generally unnecessary if the employee checks the box in Section 1 indicating that he or she is a lawful permanent resident, regardless of the expiration date on the lawful permanent resident card.

**Exception:**

An "I-551 stamp" is placed in a foreign national's passport as temporary evidence of his/her lawful permanent residence status (until he/she receives the lawful permanent resident card in the mail). If the employee presents an unexpired foreign passport containing a temporary I-551 stamp, reverification of his or her employment eligibility must be performed on or before the expiration date of the I-551 stamp. This will be the case when an individual has received permanent residence, but has not yet received the permanent resident card.

**B. Procedure**

Reverification will be completed by the Foreign National Administrator in Human Resources. Every month, a list will be generated by Human Resources containing the names of all employees whose employment authorization will expire within the next 120 days. Notification will be sent to the employee, 120 days, 90 days and 14 days prior to expiration of the employee's work authorization. This notice will advise the employee to present an unexpired document of his/her choice from List A or List C evidencing his or her continuing work authorization no later than the date of the current work authorization will expire. The notice should also warn the employee that unless he or she provides timely evidence of continuing work authorization, he or she will be terminated until such evidence is presented.

The employee's Administrative Office/College Dean, Department Chair and Immediate supervisor will receive the same notification to keep him or her apprised of the situation. If the employee is an EPA employee the notice will also be submitted to the Office of the Provost.

**Reverification Procedure**

The Foreign National Administrator will reverify employment authorization on Section 3 of the Form I-9 no later than the date that employment authorization or employer authorization documentation expires. **Do not reverify employment through the E-Verify system.**

The original documentation by the employee must be examined to assure that it appears genuine, relates to the employee, and contains an unexpired work authorization date. The employee must present unexpired documentation from either List A (OR) one original document from List C, demonstrating that he or she is currently authorized to work. There is no need to reexamine a List B document since the person's identity remains the same and need not be reverified (remember that List B documents confirm identity only, and unnecessary reverification of a List B document may constitute overdocumentation).

A photocopy (front and back) of the document(s) presented for reverification must be attached to the I-9 form completed for reverification.

**SPECIAL NOTE**

There are several classes of non-resident aliens under the Title 8 CFR Section 247a.12 of the Federal Register, who may be eligible to continue employment with the same employer for a period not to exceed 240 days from the date of the expiration of that authorized period of stay. (Please contact Foreign National Administrator for detailed requirements.)

In addition, if the application for extension is denied before the expiration of this 240 day period, **the employment authorization terminates upon notification of the denial decision.**

**Rehires:**

An employee who leaves the University and is subsequently rehired, must complete a new Form I-9, unless the employee is being rehired within 3 years from the date the original I-9 was completed and is still authorized to work pursuant to the same documentation provided

on the original I-9 form. The “I-9 date of hire” in Section 3 of the I-9 Form must reflect the current date of rehire as opposed to the employee’s original date of hire.

When an employee receives an adjusted date of hire to bridge his/her dates of service, payroll or personnel records must record the actual date of rehire.

**Note:** Because of the way the current University Payroll and Human Resources systems operate, part-time faculty, officers or research, and student officers are marked as “terminated” at the end of their current appointment even though they will be reappointed for the following academic year. As a matter of NCA&TSU policy, if such an employee is ‘terminated’ at the end of a semester only to be rehired within the next academic year, this will not be considered a “termination” requiring a new I-9, as the individual’s employment was not terminated for I-9 purposes.

## **C. Special Situations**

### **1. Extension of Nonimmigrant Petitions: Reverting Employees in H, TN, or O Status**

An employee in certain nonimmigrant statuses, including H-1B, TN, or O on whose behalf NCA&TSU files an extension of status in the same classification before the expiration of the initial USCIS-authorized period of stay, may be eligible for an extension of his/her status and can continue working while the application is pending. If the extension petition is approved prior to the expiration of the previous status, the reverification process can be completed on the Form I-9, Section 3 pursuant to the reverification procedures outlined above. If the petition is not approved before the individual’s current status expires, then the extension is valid until the extension petition is approved by the USCIS, or 240 days pass, whichever is earlier. Under such circumstances, the same reverification procedures are followed, but evidence should be attached to the I-9 showing that the extension was filed on a timely basis (e.g., filing receipt, delivery confirmation).

In the case of an extension for an existing nonimmigrant status, there will be two reverifications (one upon expiration of the current status and another when NCA&TSU receives the extension approval). The 240-day period starts on the day the employee’s initial period of authorized stay in a nonimmigrant classification expires and automatically terminates if USCIS denies the extension request. Of course, if USCIS approves the request for extension, the employee’s status is valid until the new date authorized by USCIS. In these situations, the Foreign National Administrator must perform a reverification no later than the date the current status expires and should create a tickler to reverify the employee’s employment eligibility within 240 days from the expiration date of the employee’s initial period of authorized work authorization. The tickler should indicate the date the employee has filed an application to extend the employees current work authorization.

When the employee receives approval of NCA&TSU’s request for extension of nonimmigrant status, the I-9 form should be completed consistent with the reverification procedures described above.

Note that this rule only applies to employees who request an extension of their nonimmigrant status. It does not apply to individuals who apply to USCIS for a change of status (e.g., F-1 to H-1B). Furthermore, this rule only applies to situations where the employee requests USCIS to extend previously approved authorization specific to NCA&TSU (e.g., where the employee’s initial H-1B status was only valid for NCA&TSU employment).

### **2. Employment Authorization Document (EAD) Cards**

An employee with a Form I-766, I-688, I-688A, I-688B, Employment Authorization Document (EAD), should file an application for extension of this document with the

USCIS Service Center at least 120 days before the expiration of the EAD to avoid an interruption in his or her employment. At the time of reverification, the employee must be able to present the EAD card (OR) unexpired documentation from either List A OR one original document from List C, demonstrating that he or she is currently authorized to work. A receipt for an EAD card is not acceptable.

If the USCIS Service Center fails to adjudicate the extension request within 90 days, the regulations permit the individual to apply for an employment authorization document at his or her local USCIS office. Another reverification will have to be performed at the expiration of the new employment authorization document and should be listed in the tickler system. Due to the complexity of this issue, the Foreign National Administrator will provide the necessary recommendation if this situation should arise.

#### **D. Failure to Timely Present Documents for Reverification**

If, at the time of the expiration of work authorization, the employee is unable to provide proof of continuing work authorization, he or she may not continue to work beyond the validity of his or her work authorization. At the time the work authorization expires, the employee will not be permitted to continue performing duties or services at NCA&TSU in any capacity. The employee may return to work as soon as he or she presents acceptable documents verifying work eligibility and identity. The Foreign National Administrator will take the necessary steps to inform the University departments (e.g., Supervising Department, Head Administrator, Payroll). *(See Section V(C)(1) Extension of Nonimmigrant Petitions: Reverifying Employees in H, TN, or O Status)*

## **VI. NCA&TSU Tickler System**

### **A. Establishment**

The Division of Human Resources will utilize the Banner system to document I-9 clearance. In addition, all employment authorization for foreign nationals must be submitted to the Foreign National Administrator to enter in the University tickler system and Banner – GOAINTL form. This process is meant to ensure timely reverification of employment eligibility and other I-9 issues, and will allow at least a 120 day advance notice to the employee of the expiration date.

This will also allow for purging of terminated employees I-9 forms based on the time guidelines established.

### **B. Notification**

Notification will be sent to the employee, 120 days, 90 days and 14 days prior to expiration of his or her employment eligibility. This notice will inform the employee of the need to provide timely original documentation evidencing the employee's continuing employment eligibility. The notification will also be sent to the employee's supervisor and to the departmental administrator (if EPA, Office of the Provost) 120 days, 90 days and 14 days prior to the expiration of the employee's work authorization. This notification will advise that the employee will be required to present, in a timely manner, original documentation demonstrating continuing employment eligibility or be removed from payroll and required to discontinue performing duties and services at NCA&TSU.

In cases where an employee's work authorization has been automatically extended for an additional 240 days, reverification must be completed before the expiration of the current status and the tickler should prompt to reverify before the expiration of that additional time.

### **C. Expiring Work Authorization**

Human Resources notification will initiate the reverification process by prompting the Foreign National Administrator to notify the employee of the need to reverify his or her employment eligibility in advance of the expiration and to complete reverification before the expiration of employment eligibility. *(See Section V(C)(1) Extension of Nonimmigrant Petitions: Reverifying Employees in H, TN, or O Status)*

### **D. Examining Original Documents after Receipts are Presented**

A tickler must also be kept by the Foreign National Administrator to initiate reverification for an employee who, at the time of hire presents a receipt for replacement document(s). Notification should be sent 30 days and 14 days before the expiration of the initial 90-day period of employment and should remind the employee to present the original document(s) no later than 90 days from the first day of hire. The tickler should also prompt the examination of the original document before the expiration of the 90-day period.

## **VII. Central Retention and Storage of I-9 Forms**

I-9 forms for current and terminated employees should be stored in different files.

### **A. Current Employees**

The law requires employers to properly complete and retain a Form I-9 for every current employee hired after November 6, 1986.

All I-9 forms must be maintained separately from the employee's personnel file. I-9s should remain stored and locked with availability to limited authorized personnel. All documents may be used only for I-9 purposes. The records may not be copied or distributed without authorization from the Vice Chancellor of Human Resources and the University's Chief Legal Office.

### **B. Terminated Employees**

I-9 forms for terminated employees must be kept for either one year from the date of termination of employment OR three years from the date of hire, whichever is longer.

### **C. Rehires**

An employee who leaves the University, regardless of the length of separation and is subsequently rehired must complete a new Form I-9, unless the employee is being hired within 3 years of completion of the original I-9 Form and is still eligible to be employed based upon the same documentation.

### **D. Foreign National (non-immigrant)**

I-9 forms for foreign national (non-immigrant) employees will be filed separate from other I-9 forms.

## **VIII. Notice of Central Inspection By Government Agency**

An employer is entitled to three (3) days notice prior to an inspection of I-9 forms by the United States Citizenship and Immigration Service (USCIS), the Department of Labor (DOL) or the Office of Special Counsel for Immigration Related Unfair Employment Practices. Although the regulations provide that the employer is entitled to such notice, in practice, inspectors will not necessarily advise employers of this right. Since an inspection may result in the imposition of substantial fines against the University, immediately contact the Office of Legal Affairs and the Division of Human Resources if a notice of an inspection is received.

## **ADDENDUM: List of Acceptable Documents**

As a participant in the E-Verify program, following are lists of acceptable documents:

### **List A (Documents that Establish Both Identity and Employment Eligibility)**

1. U.S. Passport (unexpired or expired)
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
3. An unexpired Foreign passport with a temporary I-551 stamp
4. An unexpired Employment Authorization Document that contains a photograph (Form I766, I-688, I688-A, I-688B)
5. An unexpired Foreign Passport with an unexpired Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer

### **OR**

### **List B (Documents that Establish Identity)**

These documents must bear a photograph.

1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address
2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address
3. School ID card with a photograph
5. U.S. Military card or draft record
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal document
9. Driver's license issued by a Canadian government authority

*As a participant of the E-Verify program, the following documents from List B are not acceptable:*

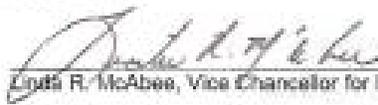
4. Voter's registration card
10. School record or report card (for persons under age 18)
11. Clinic, doctor or hospital record (for persons under age 18)
12. Day-care or nursery school record (for persons under age 18)

### **AND**

### **List C (Documents that Establish Employment Eligibility)**

1. U.S. Social Security Card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
3. Original or Certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
5. Native American tribal document
6. U.S. Citizen ID Card (Form I-197)
7. ID Card for use of Resident Citizenship in the United States (Form I-179)
8. Unexpired employment authorization document issued by DHS (other than those listed under List A)

Approved:

  
Cynthia R. McAbee, Vice Chancellor for Human Resources

Date 7/7/08

  
Stanley F. Battie, Chancellor

Date 7/7/08