

COUNSEL'S CORNER

DEPARTMENT OF HOMELAND SECURITY ISSUES NEW VERSION OF FORM I-9

By

Joel A. Klarreich, Esq.

Jason B. Klimpl, Esq.

The Department of Homeland Security (“DHS”) has issued another update to the Form I-9, Employment Eligibility Verification (“I-9 Form”). The new I-9 Form will become mandatory for staffing firms and other employers to use with new hires and reverifications starting on September 18, 2017.

DHS made three limited changes to the I-9 Form. The first updates the “List of Acceptable Documents” section of the form relating to the certification or report of birth documents issued by the U.S. Department of State. The second change is a modification of the description of when a new hire needs to complete Section 1 of the form. While the old version of the form stated that Section 1 should be completed “no later than the end of employee’s first day of employment,” the new version has deleted the “end of day” qualifier. The third change updates the name of the Department of Justice office tasked with enforcing the I-9 Form related anti-discrimination rules, which will now be referred to as the Immigrant and Employee Rights Section.

Although not required, staffing firms should consider instructing their hiring managers or human resources departments to discard any blank I-9 Forms on hand with the revision date of 11/14/16 and replace them with the new version containing the revision date of 7/17/17 for use with all new hires going forward. There is no requirement to redo any existing I-9 Forms. However, if a staffing firm must reverify an existing I-9 Form on or after September 18, 2017, the new I-9 Form should be used.

As a reminder, the I-9 Form may be completed only after the employer has offered the applicant a job and he or she has accepted the offer – in the temporary staffing context this generally means the time at which the temporary employee accepts the opportunity to enter into the staffing firm’s job pool. Staffing firms are advised to contact employment counsel with any questions or issues related to the updated I-9 Form or the employee on-boarding process.

Joel A. Klarreich, Esq., NYSA’s General Counsel, is a partner at the New York City law firm of Tannenbaum, Helpern, Syracuse & Hirschtritt LLP, where he chairs the Corporate, Staffing Industry and Franchise Departments. Jason B. Klimpl, Esq., also a partner at the firm, is NYSA’s Associate General Counsel. This article is general in nature and is not intended to be a substitute for legal or tax advice or a legal opinion rendered in response to a specific set of facts. This article may be considered attorney advertising in some jurisdictions.