

New Colorado Immigration Law: Employment Verification Requirements

A new Colorado law (8-2-122, C.R.S., HB 06S-1017) concerning employment verification requirements became effective on January 1, 2007. This law applies to public and private employers in Colorado and to employees hired on or after January 1, 2007.

There are two main components to the law (these are distinct from federal I-9 Requirements):

- (1) Each employer in Colorado shall make an affirmation within 20 days after hiring a new employee. The employer must keep a written or electronic copy of the affirmation for the term of employment of each employee.
- (2) The employer must keep a written or electronic copy of the documents required by 8 U.S.C. Sec. 1324a for the term of employment of each employee.

The documents described above do not have to be submitted to the Division of Labor, unless specifically requested by the Division.

Employers' Responsibility Under The Law -- Document Review Standard

The standard for review of documents in the employment eligibility verification process is that of reasonableness. An I-9 List document is acceptable if it reasonably appears on its face:

- (1) to be genuine and;
- (2) to relate to the individual who presents it.

In other words, an employer or employer's agent who signs Section 2 of the Form I-9 is not attesting to the legitimacy of the status of the person who presents the document but, rather, to the fact that he or she has reviewed the original document and that it reasonably appears to him or her, upon reasonable inspection of its features and the information it contains, to be genuine and to relate to the employee who has presented it for employment eligibility verification purposes.

Relationship Between Document Review and Continued Employment

If a card reasonably appears to be genuine and to relate to the person presenting it, the employer should not dismiss that employee. However, if a card does not meet this standard, the employer should reject it for employment eligibility verification purposes and ask the individual to produce other acceptable I-9 documentation.

In cases where the employee does not produce acceptable documentation that appears to be genuine and to relate to the individual presenting it, the employer should not continue to employ the individual.

For more information, contact CTSI at 303-861-0507.