

Traditional Values Innovative Thinking

I-9 Compliance

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Background

- In 1986, in an effort to control illegal immigration, Congress passed the **Immigration Reform and Control Act (IRCA)**.
- IRCA forbids employers from knowingly hiring individuals who do not have work authorization in the United States.
- Individuals who may legally work in the U.S. are:
 - U.S. Citizens
 - Noncitizen nationals of the U.S.
 - Lawful Permanent Residents
 - Aliens authorized to work

Employment Verification

- To comply with the employment eligibility verification provisions of the INA an employer must:
 - Verify the identity and employment authorization documents of employees hired after November 6, 1986
 - Complete and retain a Form I-9 for each employee hired after November 6, 1986
 - Refrain from discriminating against individuals on the basis of actual or perceived national origin, citizenship or immigration status

Preventing Discrimination

The anti-discrimination provisions of the INA prohibit four types of unlawful conduct:

- Citizenship or immigration status discrimination*
- National origin discrimination*
- Document abuse during Form I-9 process
- Retaliation

* Actual or perceived

Enforcement Trends

- ICE audits continue to rise
 - In 2013, ICE initiated more than 3,900 cases, which lead to 3,127 I-9 inspections
 - \$13 million in fines issued
 - 238 company managers arrested
- Broad range of businesses being audited
- ICE coordinating with SSA, DOL, IRS and local law enforcement

Types of penalties that can be imposed for noncompliance:

- Civil and criminal fines
- Imprisonment
- Forfeiture of property
- Cease and desist orders
- Debarment from federal contracts

Penalties (cont.)

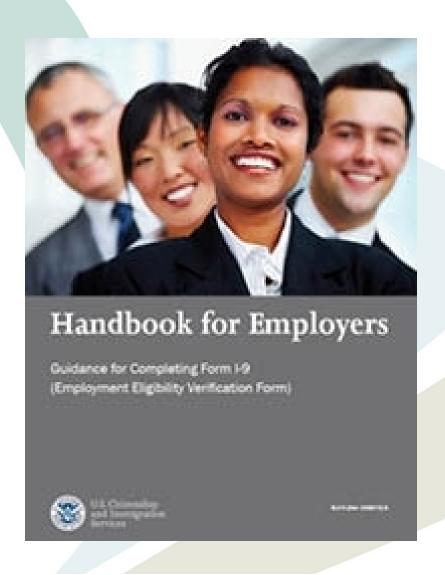
- Penalties for "paperwork" violations range from \$110 to \$1,100 (even if employee is U.S. citizen or authorized alien).
- Civil Penalties for knowingly employing an unauthorized alien are:
 - 1st Offense \$275 \$2,200 per alien
 - 2nd Offense \$2,200 \$5,500 per alien
 - 3rd Offense \$3,300 \$11,000 per alien

Penalties (cont.)

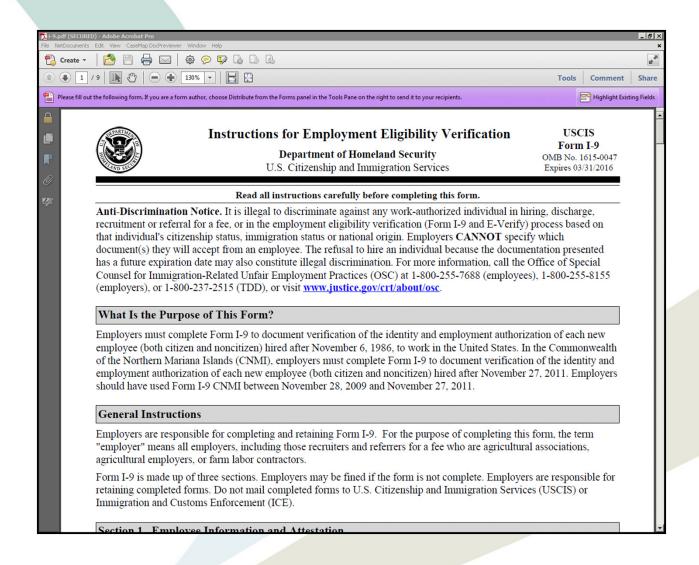
- Employers who engage in a "pattern or practice" of knowingly hiring unauthorized workers are subject to criminal penalties including:
 - up to \$3,000 per unauthorized alien; and
 - up to 6 months imprisonment
- Employers convicted of serious felonies can be sentenced from 5 to 20 years.

Your Best Friend: M-274

(revised 4-30-2013) ww.uscis.gov/sites/default/files/files/form/m-274.pdf



Your Next Best Friend:



I-9 Mechanics

- Use MOST CURRENT Form I-9 (Version, 03/08/13)
- You must make the List of Acceptable Documents available to your EMPLOYEE when he or she is completing the Form I-9
- The EMPLOYEE must provide:
 - One document from List AOR:
 - One document from List B <u>AND</u> one document from List C

List of Acceptable Documents (cont.)

LISTS OF ACCEPTABLE DOCUMENTS All documents must be UNEXPIRED

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

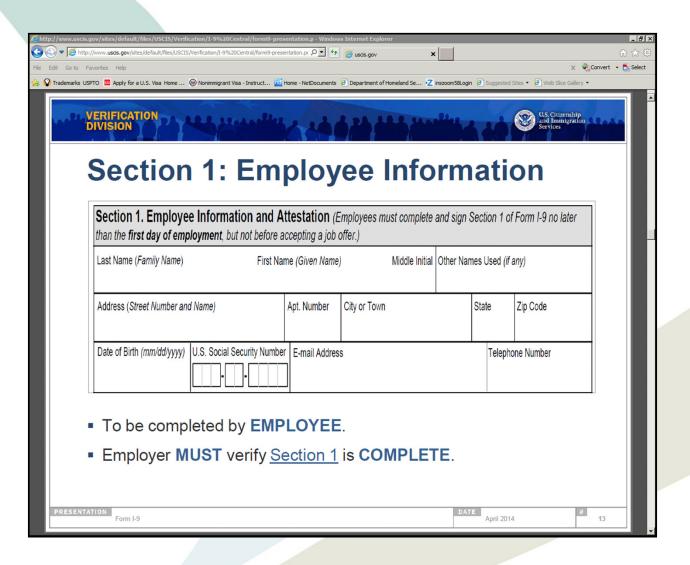
| | LIST A Documents that Establish Both Identity and Employment Authorization | OR | LIST B Documents that Establish Identity AN | ID | LIST C Documents that Establish Employment Authorization | |
|---|--|-------|--|----|--|--|
| 2. | U.S. Passport or U.S. Passport Card Permanent Resident Card or Alien Registration Receipt Card (Form I-551) Foreign passport that contains a | | 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 | 1. | A Social Security Account Number card, unless the card includes one the following restrictions: (1) NOT VALID FOR EMPLOYMEN (2) VALID FOR WORK ONLY WITH | |
| | temporary I-551 stamp or temporary I-551 printed notation on a machine- readable immigrant visa | | ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or | | INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION | |
| 4. | Employment Authorization Document that contains a photograph (Form I-788) | | information such as name, date of birth, gender, height, eye color, and address | 2. | Certification of Birth Abroad issued by the Department of State (Form FS-545) | |
| 5. | For a nonimmigrant alien authorized to work for a specific employer because of his or her status: | | School ID card with a photograph Voter's registration card | 3. | Certification of Report of Birth issued by the Department of State (Form DS-1350) | |
| Foreign passport; and Form I-94 or Form I-94A that has the following: (1) The same name as the passp and (2) An endorsement of the alien's nonimmigrant status as long it that period of endorsement is not yet expired and the proposed employment is not conflict with any restrictions o | a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; | | U.S. Military card or draft record Military dependent's ID card U.S. Coast Guard Merchant Mariner Card | 4. | Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal | |
| | An endorsement of the alien's nonimmigrant status as long as that period of endorsement has | 1 1 1 | 8. Native American tribal document | 5. | Native American tribal document | |
| | | | Driver's license issued by a Canadian government authority | 6. | U.S. Citizen ID Card (Form I-197) | |
| | | | For persons under age 18 who are unable to present a document listed above: | | Identification Card for Use of Resident Citizen in the United States (Form I-179) | |
| 6. | Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI | | 10. School record or report card | 8. | Employment authorization document issued by the | |
| | | | 11. Clinic, doctor, or hospital record | | Department of Homeland Secur | |
| | | | 12. Day-care or nursery school record | | | |

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274).

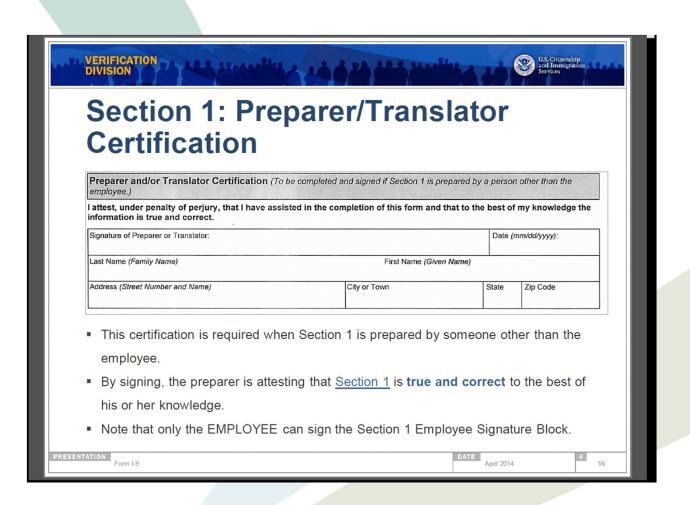
Refer to Section 2 of the instructions, titled "Employer or Authorized Representative Review and Verification," for more information about acceptable receipts.

Form I-9 03/08/13 N Page 9 of 9

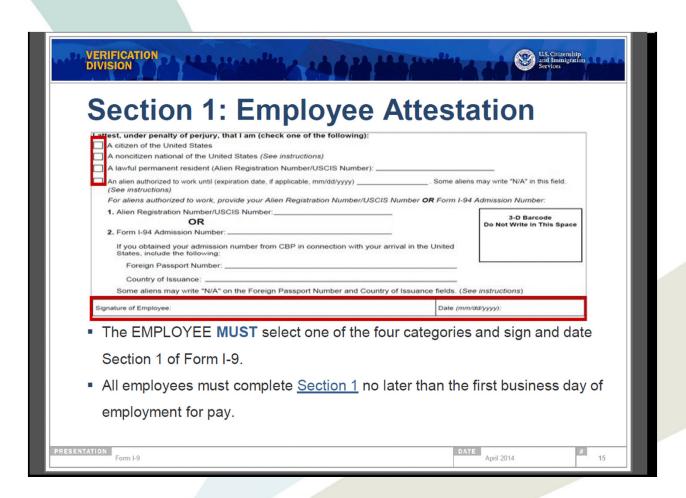
1-9 Mechanics – Section 1



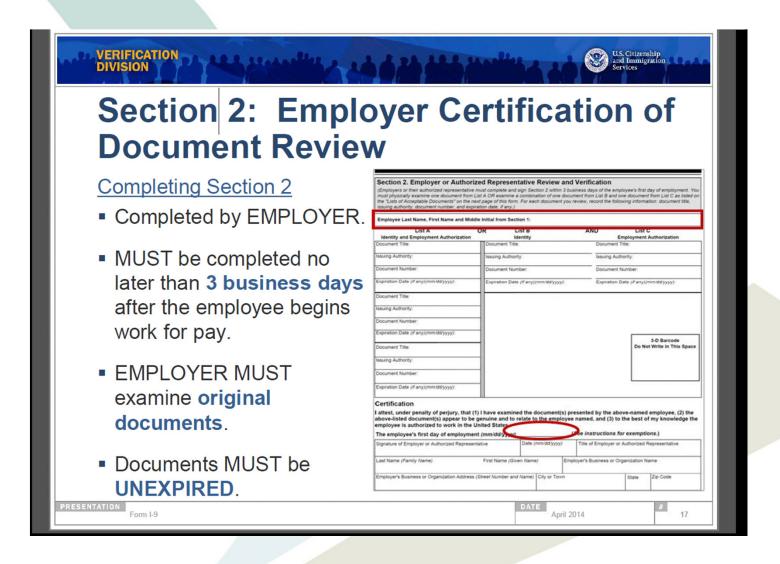
1-9 Mechanics – Section 1



I-9 Mechanics – Section 1



1-9 Mechanics – Section 2



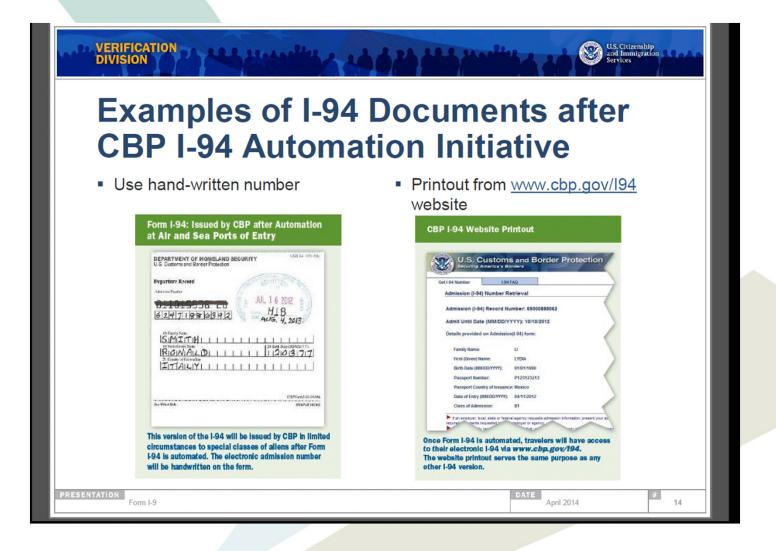
I-9 Mechanics

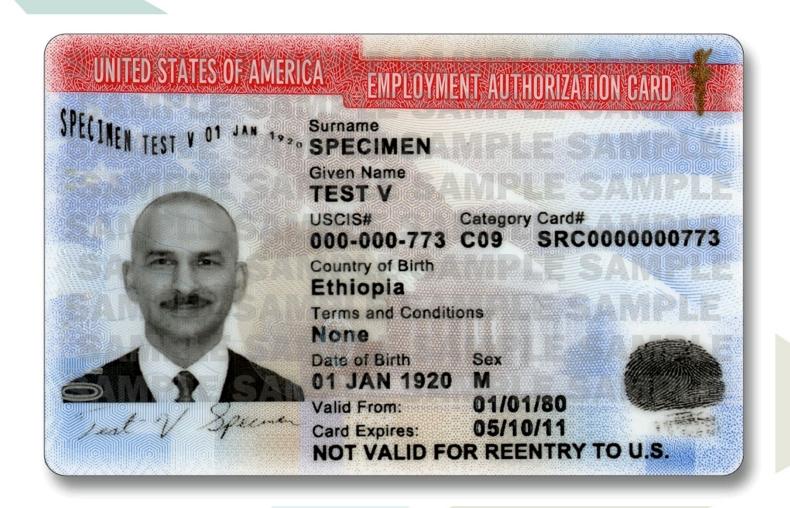
- You are not required to be a document expert
- You MUST accept a document presented by an employee if it reasonably appears to be:
 - Genuine; AND,
 - Relates to the individual presenting it
- The document MUST be original* photocopies are
 NOT acceptable
 - * Exception: Certified copy of a birth certificate

Section 2: Copying Documents

- You may choose to make copies of employee documentation presented to you for Section 2.
- If you choose to photocopy documents, you must do so for **ALL** employees, regardless of actual or perceived national origin, immigration or citizenship status, or you may be in violation of anti-discrimination laws. Form I-94

Form I-94





PR Card

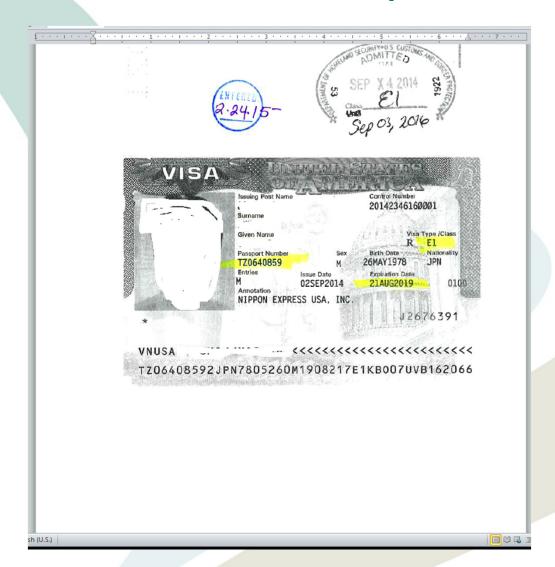




Form I-797A (Approval Notice)

| RECEIPT NUMBER WAC-13-247-51120 | CASETYPE 1129 PETITION FOR A NONIMMIGRANT | | | |
|--|--|--|--|--|
| RECEIPT DATE PRIORITY DATE | TE PETITIONER | | | |
| September 17, 2013 | NIPPON EXPRESS USA INC | | | |
| NOTICE DATE PAGE | BENEFICIARY | | | |
| October 18, 2013 1 of 2 | | | | |
| RICHARD J BLOCK ESQ | Notice Type: Approval Notice | | | |
| LAW OFC OF RICHARD J BLOCK RE: NIPPON EXPRESS USA INC | Valid from 10/17/2013 to 10/16/2015 | | | |
| 40 TRIANGLE CENTER STE 205 | Consulate: | | | |
| YORKTOWN HEIGHTS NY 10598 | | | | |
| The above petition and extension of stay have been approved. The status of the named forcing worker(s) in this classification is valid as included above. The forcing worker(s) can work for the petitions, but only as detailed in the petition and for the period sutherized. Changes in employment or training may require you to file a new Form 1-129 petition. Since this subjouent or training anterization store the subjouent or training appropriate post of the superior and the superior subject to the value of this petition, separate employment or training authorization documentation is not required. Please contact the IRS with any questions about tax withholding. The petitioner should keep the upper portion of this notion. The lower portion should be given to the worker. We can assume that the period of the period of the period of the provided provided provided the provided p | | | | |
| The approval of this visa potition does nation beneficiary will subsequently be roun an extension, change, or adjustment of states room is not a VISA NOR MAY IT BE UNED THE SMAIL BUSINESS Populatory Enforcement a at the Smail Business Administration. The Camil Business Administration. | this approval. Or in front grant any instruction status and does not quarantee that the low to be midples for a Yim, for dentember to the vertex destroys to average the provided of the PAICS of A YIM. IN PLACE OF A YIM. DOD Pairces Act catabilished the Office of the Mational Ombudenas (GMD) magnify mail businesses with issues related to federal requisitions. | | | |
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| The approval of this visa petition does in alien beneficiary will subsequently be road as a seriestim. Catalog, or adjustment of shall read the property of the control of | this approval. Of an facel grant any similarization states and does not guarantee that the or to see suspices ROF 9 750, for seminations (AP (AP) 100 Parisons ROF 9 750, for seminations (AP (AP) 100 Parisons ROF 9 750, for seminations (AP (AP) 100 Parisons ROF 9 750, for seminations (AP) (AP) (AP) (AP) (AP) (AP) (AP) (AP) | | | |

Visa Stamp



I-9 for Foreign National with Nonimmigrant Visa

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1: Tanaka, Morihiko

| List A Identity and Employment Authorization | OR List B Identity | AND List C Employment Authorization |
|--|---------------------------------------|---------------------------------------|
| Document Title: Japanese Passport | Document Title: | Document Title: |
| Issuing Authority: Japan | Issuing Authority: | Issuing Authority: |
| Document Number: TK4321145 | Document Number: | Document Number: |
| Expiration Date (if any)(mm/dd/yyyy): 10/10/2020 | Expiration Date (if any)(mm/dd/yyyy): | Expiration Date (if any)(mm/dd/yyyy): |
| Document Title: I-94 Issuing Authority: DHS | | |
| Document Number: 37988210392 Expiration Date (if any)(mm/dd/yyyy): 02/24/2018 | | 3-D Barcode |
| Document Title: | | Do Not Write in This Space |
| Issuing Authority: | | |
| Document Number: | | |
| Expiration Date (if any)(mm/dd/yyyy): | | |

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the



Section 3: Reverification

| Section 3. Reverification and Rehires (To | be completed and signed | by employer or au | uthorized representative.) | | | | | |
|--|-------------------------|---------------------|---|--|--|--|--|--|
| A. New Name (if applicable) Last Name (Family Name) Firs | st Name (Given Name) | Middle Initial B. [| Date of Rehire (if applicable) (mm/dd/yyyy) | | | | | |
| C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below. | | | | | | | | |
| Document Title: | Document Number: | | Expiration Date (if any)(mm/dd/yyyy): | | | | | |
| I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual. | | | | | | | | |
| Signature of Employer or Authorized Representative: | Date (mm/dd/yyyy): | Print Name of Empl | loyer or Authorized Representative: | | | | | |

- You MUST reverify an employee using <u>Section 3</u> if his or her temporary employment authorization has expired.
- You MAY also complete Section 3 if you:
 - Rehire the EMPLOYEE within 3 years of the date of initial execution of the Form I-9*
 - Update the biographic information of an employee
 - * USCIS recommends completing a new Form I-9 for rehires

PRESENTATION

Form I-9

DATE

April 2014

21

Reverification (cont.)

- Employee's temporary work authorization must be done no later than the expiration date.
- Review employee's document establishing work authorization beyond the expiration date.
- Complete Section 3 of the most recent I-9 version and print the employee's name in Sec. 1.
- Staple the new I-9 document copy (if applicable) to the original I-9.

Section 3 - Reverification (cont.)

- Section 3 does <u>not</u> need to be completed and no reverification needs to be done in the following instances:
 - Temporary absence of employee if there is a reasonable expectation of continuing employment
 - Promotions, demotions, or lateral job changes
 - LPRs whose PR card was current when hired but has since expired (this includes conditional LPRs (i.e., with only an initial 2 year validity)
 - List B documents that were current when hired but has since expired
 - Name change occurs through marriage

Other Tricky I-9 Situations

- Employment incident to status
- H-1B portability
- 240 day rule
- The receipt rule
- Curricular Practical Training

Employment incident to status

Certain types of aliens are authorized to work in the U.S. "incident to their status":

- Lawful Permanent Residents
- Asylees and Refugees*
- U.S. nationals who are citizens of the Federated States of Micronesia and Republic of the Marshall Islands

*(See page 13 of M-274 for detailed explanation of how to handle asylee and refugee I-9s)

H-1B Portability

- AC-21 allows a current H-1B employee to begin work for a new employer as soon as an H-1B petition is filed by new employer.
- I-9 verification is done in two steps:
 - Upon employment, using foreign passport, Form I-94 showing current H-1B status and USCIS Receipt Notice for new H-1B petition
 - Upon receipt of the H-1B approval notice from USCIS.

240 Day Rule

- Allows certain nonimmigrants (i.e., H-1B, E-2, O-1, TN visa holders) to continue working for same employer for up to 240 days after expiration date of the current validity period as long as the extension petition was filed prior to expiration.
- Employer writes "240 Day Ext." in margin of Sec. 2 Form I-9 and the date the I-129 extension petition was submitted to USCIS.
- Once extension is approved, Section (reverification) needs to be completed. If extension is denied, work authorization ends upon notification of denial.
- Does not apply to a renewal application for EADs

Receipt Rule

- Employers can accept receipts* temporarily in lieu of a document when the original document is lost, stolen or damaged and the employee has applied for a replacement and is able to produce the receipt at the time of hire.
- Rule is not applicable to receipts for EADs or employees hired less than 3 days.
- Employee must present replacement document within 90 days of first day of work or expiration date of prior work authorization.

(*See I-9 Instructions – page 4)

Form I-20

| E http | o://www.unh.edu/oiss/sites/www.unh.edu.oiss/files/gen | ral/i-20_2.jpg - Windows Internet Explorer | _[#]× |
|---------------|--|---|------------------------|
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| U.S. Imr | S. Department of Justice progration and Naturalization Service see real Instruction on early 2. spage must be completed and signed in the U.S. by a designated school official. First (given) Nance: Middle Nance: Country of birth: Date of birth (moviday/year): | immigrant Visa - Instruct | n |
| - | Country of citizenship: Admission number: School (school district) name: School Official to be notified of student's arrival in U.S. (Name and Title): School address (include zip code): | Vua inning post Date Vin Issued | |
| 3. | School softerss (include zip code): School code (including 3-digit suffix, if any) and approval date: approved on This certificate is issued to the student named above for: Level of education the student is pursuing or will pursue in the United States | Reinstated, extension granted to: | |
| | The student samed above has been accepted for a full course of study at this school, majoring in The student is expected to report to the school no later than and complete studies not later than The normal length of study is months. | means of support, estimated for an academic term of months (Use the same number of months given in item 7). a. Student's personal funds \$ b. Funds from this school \$ Specify type: | |
| 7. | English proficiency: This school estimates the student's average costs for an academic term of | nd evaluation in the United States by me or other officials of the school of of chancial responsibility, which were received at the school prior to the it's qualifications meet all standards for admission to the school; the student | |
| 11. | Name of School Official Signature of Designated School Official To Student Certification: I have read and agreed to comply with the terms and c page 2. I certify that all information provided on this form refers specifically seek location or errain in the United States temporarily, and solely for the promotion of the seek location or errain in the United States temporarily, and solely for the promotion of the seek location of | nditions of my admission and those of any extension of stay as specified on one and is true and correct to the best of my knowledge. I certify that I pose of pursuing a full course of study at the school named on page I of this | |
| | Name of Student Signatur Name of parent or guardian Signature of parent or guardian If student under 18 | of Student Dute Address (city) (State or Province) (Country) (Date) | |
| | Form 1-20 A-B (Rev. 04-27-8§N | Far Official Use Only Microfilm Index Number | |

Curricular Practical Training

CURRICULAR PRACTICAL TRAINING Section 2. Employer or Authorized Representative Review and Verification (Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.) Employee Last Name, First Name and Middle Initial from Section 1: Tanaka, Morihiko List A List B Identity and Employment Authorization **Employment Authorization** Document Title: Issuing Authority: Japan Document Number: Document Number: TK432114 Expiration Date (if any)(mm/dd/yyyy): Expiration Date (if any)(mm/dd/yyyy): Expiration Date (if any)(mm/dd/vvvv): 09/19/2015 Document Title: Issuing Authority DHS Document Number Expiration Date (if any)(mm/dd/yyyy) D/S Do Not Write in This Space Document Title: Form I-20 Issuing Authority Document Number: Expiration Date (if any)(mm/dd/vvyv) 09/30/2015 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):_ (See instructions for exemptions.) Date (mm/dd/vvvv) Signature of Employer or Authorized Representative Title of Employer or Authorized Representative First Name (Given Name) Employer's Business or Organization Name Employer's Business or Organization Address (Street Number and Name) | City or Town Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.) A. New Name (if applicable) Last Name (Family Name) First Name (Given Name) Middle Initial B. Date of Rehire (if applicable) (mm/dd/yyyy) C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below. Document Number: Expiration Date (if any)(mm/dd/yyyy): Document Title: I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual. Print Name of Employer or Authorized Representative: Page 8 of 9

Common Errors Revealed in I-9 Audits

- Missed deadlines for completion of Sections 1 & 2
- Missing information including citizenship or immigration status, signatures, dates of execution, date of hire and data elements from employee's documents
- Incorrect entry of document information
- Acceptance of inappropriate documents
- Document Abuse (too many documents used)

Correction Errors or Omissions on the I-9 After Initial Verification:

- Line out incorrect information
- Enter the new information
- Initial and date the change
- If unable to correct the old form, use most recent version of the new form, and retain corrected I-9 with original I-9