

# LEGAL UPDATE

## ICE Changes Several Form I-9 Technical Violations to Substantive Violations



On March 16, 2026, the U.S. Immigration and Customs Enforcement (ICE) updated its [Form I-9 Inspection Under Immigration and Nationality Act Section 274A fact sheet](#), changing more than 10 categories of technical Employment Eligibility Verification form (Form I-9) violations to substantive violations. Substantive violations can result in immediate fines of \$288 to \$2,861 per violation.

### Background

Federal law requires employers to hire only individuals who may legally work in the United States—either U.S. citizens or authorized foreign nationals. To comply with the law, employers must verify the identity and employment authorization of each individual they hire by completing and retaining the Form I-9. Authorized federal officials can conduct worksite enforcement investigations and request copies of all Forms I-9 for any reason. If that happens, employers must have the original forms available on-site within three days of the request. ICE will review each Form I-9 to identify any substantive or technical paperwork violations and all employees the employer knowingly hired or continued to employ without authorization.

Paperwork violations are among the most common Form I-9 violations. There are two types of paperwork violations: substantive and technical. Substantive violations, such as failing to verify identity and employment authorization documents, carry immediate fines. Technical errors, such as missing a date or failing to complete a field, can be corrected within 10 business days of receiving notice of the errors. However, after the correction period ends, uncorrected technical errors become substantive violations.

### Key Highlights

The fact sheet converts several technical violations to substantive violations, including the following:

- Missing employee date of birth;
- Missing Alien Registration Number/U.S. Citizenship and Immigration Services Number;
- Missing date next to employee's signature;
- Missing work authorization expiration date;
- Completion of the Spanish-language form outside of Puerto Rico;
- Missing name or title of employer representative;
- Incomplete document information in Section 2 (e.g., title, number, issuing authority, expiration);
- Missing first day of employment;
- Incomplete preparer or translator information;
- Failure to check the alternative procedure box or use of remote verification without active E-Verify enrollment; and
- Electronic I-9 system deficiencies (e.g., audit trails, e-signatures, security documentation).

In addition, retaining a copy of an employee's identity or work authorization document does not cure missing or incomplete information on the Form I-9.

Employers may still correct technical errors within the 10-day cure window, such as failure to record the employee's name on the top of page 2, failure to record the business name or address in Section 2, and failure to record an employee's other last names or physical address in Section 1 after receiving a notice from ICE.

## Employer Takeaway

Employers that fail to properly complete or retain Forms I-9 can be subject to costly civil monetary penalties. Fines can range from a few hundred dollars to several million dollars, depending on the offense and the frequency of offenses. Employers should review the updated fact sheet and consider conducting an internal Form I-9 audit to identify and correct any paperwork errors before any federal worksite enforcement investigations. Employers should also review their processes for completing and retaining Forms I-9 to reduce the risk of errors and violations.

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