

Publications

Employers Must Comply with I-9 Requirements within 30 Days of the Expiration of COVID Flexibilities

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U.S. Immigration and Customs Enforcement (ICE) announced on May 4 that employers will have 30 days to comply with Form I-9 requirements after the COVID-19 flexibilities end on July 31, 2023. Specifically, employers have until August 30, 2023 to reach compliance by physically inspecting original identity and employment eligibility documents for all individuals whose documents were inspected remotely. Once the documents have been physically examined, the employer will be required to enter “documents physically examined” and add the date of inspection to the Additional Information box in Section 2 of the Form I-9.

I-9 requirement flexibilities permitted employers taking physical proximity precautions due to COVID-19 to temporarily defer physical examination of employees’ identity and employment eligibility documents. Under the flexibilities, employers were allowed to examine employees’ documents remotely and were required to obtain, inspect, and retain copies of these documents within three business days in order to complete Section 2, entering “COVID-19” as the reason for the physical inspection delay.

To the extent companies took advantage of these flexibilities, they should begin physical inspection of documents if they have not done so already. If you have questions about this process, please reach out to your Vorys attorney.

Additionally, the Department of Homeland Security (DHS) is working on a proposed rule that would allow alternative procedures for inspection of Form I-9 documents in specific cases. The proposed rule was issued on August 18, 2022 and the public comment period closed on October 17, 2022. DHS is currently reviewing public comments and expects to issue a final rule later this year.