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Hiring Immigrants

When hiring a new employee, businesses must be careful not only to select the right person for the job, but to make sure that they do so legally. When considering an applicant who is an immigrant, employers must be careful to guard against illegally hiring individuals not authorized to work in the United States while avoiding discriminating against U.S. citizens based upon ethnicity.

The federal Immigration Reform Control Act (IRCA) requires employers to complete Form I-9, an eligibility form, for every new employee. The I-9 serves as proof that the employer has verified the legal eligibility of the applicant to be employed in the U.S. Employers must retain these forms for three years after hiring, or one year after employment is terminated, whichever comes last. IRCA applies to all private-sector businesses with three or more employees. Covered businesses can prove they have verified employment eligibility on the I-9 through checking one or more of several documents:

- Social Security card plus driver's license with photograph;
- U.S. passport;
- unexpired foreign passport with temporary I-551 stamp;
- alien registration receipt card;
- permanent resident card (green card); or
- U.S. birth certificate plus driver's license with photograph.



When hiring ANY new employee, it is paramount that your business verifies the individual's eligibility to work by examining one of the documents listed above.

While IRCA prohibits the employment of individuals not authorized to work in the U.S., it also prohibits employers from discriminating against U.S. citizens or "intending citizens" on the basis of national origin or citizenship status.

The antidiscrimination provisions of IRCA protect U.S. citizens and those immigrants authorized to work in the U.S. who are taking active steps to become citizens, from discriminatory or simply overly cautious employers.

It is important for employers and employees alike to understand that all employees, whether legally authorized to work or not, are protected by federal and state workplace law. The Department of Justice Office of the Special Counsel for Immigration-Related Unfair Employment Practices offers more information on its website, www.justice.gov/crt/osc.