

# The Immigration Reform and Control Act (IRCA) Prohibits Employment Discrimination



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## What You Should Know

Under IRCA, when hiring, discharging, or recruiting or referring for a fee, employers with four or more employees may not:

- Discriminate because of **national origin** against U.S. citizens, U.S. nationals, and authorized aliens. (Employers of 15 or more employees should note that the ban on national origin discrimination against any individual under Title VII of the Civil Rights Act of 1964 continues to apply.)
- Discriminate because of **citizenship status** against U.S. citizens, U.S. nationals, and the following classes of aliens with work authorization: permanent residents, temporary residents (that is, individuals who have gone through the legalization program), refugees, and asylees.

Employers can demonstrate compliance with the law by following the verification (I-9 Form) requirements and treating all new hires the same. This includes the following steps:

- **Establish a policy of hiring only individuals who are authorized to work.** A "U.S. citizens only" policy in hiring is illegal. An employer may require U.S. citizenship for a particular job **only** if it is required by federal, state, or local law, or by government contract.
- **Complete the I-9 Form for all new hires.** This form gives employers a way to establish that the individuals they hire are authorized to work in the United States.
- **Permit employees to present any document or combination of documents acceptable by law.** Employers **cannot** prefer one document over others for purposes of completing the I-9 Form. Authorized aliens do not carry the same documents. For example, not all aliens who are authorized to work are issued "green cards." As long as the documents are allowed by law and appear to be genuine on their face and to relate to the person, they should be accepted. Not to do so is illegal. Acceptable documents are listed on the reverse side.

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*IRCA established the Office of Special Counsel (OSC) for Immigration-Related Unfair Employment Practices to enforce the IRCA antidiscrimination provision. Discrimination charges are filed with OSC. Charges or written inquiries should be sent to: Civil Rights Division, The Office of Special Counsel for Immigration-Related Unfair Employment Practices, 950 Pennsylvania Ave., N.W.--NYA, Washington, DC 20530. For more information, call the OSC Employer Hotline at 1-800-255-8155 (toll free); 1-800-362-2735 (TDD device for the hearing impaired). For questions about Title VII, please contact the Equal Employment Opportunity Commission at 1-800-669-4000 (toll free) or 202-275-7518 (TDD).*

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## LISTS OF ACCEPTABLE DOCUMENTS

### LIST A

#### Documents that Establish Identity and Employment Eligibility

1. U.S. Passport (unexpired or expired)
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
3. An unexpired foreign passport with a temporary "I-551" stamp
4. An unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B)
5. An unexpired foreign passport with an unexpired Arrival-Departure Record (Form I-94), bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer

### LIST B

#### Documents that Establish Identity

1. Driver's license or ID card issued by a state or outlying territory of the United States, provided it contains a photograph or information such as name, date of birth, sex, height, eye color and address
2. ID card issued by federal, state, or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, sex, height, eye color and address
3. School ID card with a photograph
4. Voter's registration card
5. U.S. Military card or draft record
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal document
9. Driver's license issued by a Canadian government authority

**For persons Under age 18 who are unable to present a document listed above:**

10. School Record or report card
11. Clinic, doctor, or hospital record
12. Day-care or nursery school record

### LIST C

#### Documents that establish Employment Eligibility

1. U.S. Social Security card issued by the Social Security Administration (*other than a card stating it is not valid for employment*)
  2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
  3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
  4. Native American tribal document
  5. U.S. Citizen ID Card (Form I-197)
  6. ID Card for use of Resident Citizen in the United States (Form I-179)
  7. Unexpired Employment Authorization Document issued by DHS (*other than those listed under List A*)
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