

# Frequently Asked Questions

## Updated DHS Requirements for the Form I-9

1. If an employee already completed an I-9 and E-Verify, then why do they need to do this?
  - a. In accordance with the Immigration Reform and Control Act of 1986 ("IRCA"), the University of Colorado Anschutz must verify employment eligibility of each employee within the first three business days of employment through the Form I-9. The allowance of remote inspection of identity and eligibility documents for Section #2 was a temporary flexibility granted by the U.S. Department of Homeland Security (DHS) in March 2020 for COVID-19. On May 4, 2023, DHS and U.S. Immigration and Customs Enforcement (ICE) announced that the COVID-19 flexibilities for the Form I-9 will end on July 31, 2023. In addition, they announced that employers have until August 30, 2023 to physically reinspect the [identity and employment-eligibility documents](#).
2. Do we need to do physical inspection of documents for new hires?
  - a. Yes, DHS and U.S. Immigration and Customs Enforcement (ICE) announced that the COVID-19 flexibilities for the Form I-9 will end on July 31, 2023. Until a new rulemaking takes place to reinstate remote options for inspection of the [identity and employment-eligibility documents](#), we must follow federal regulations.
3. We have employees that are out-of-state employees and employees that live an unreasonable distance from campus? How do we physically inspect their documents?
  - a. Physical inspection or reinspection must still occur. Employers may choose to use an authorized representative to fill out their portion of the Form I-9 on their behalf. CUPA-HR has [an I-9 Reciprocal Processing Consortium](#) across the U.S. Individuals can [search by zip code](#) and find a location closest to them.
4. What if we completed remote inspection of an employee's documents but the employee separated from CU?
  - a. Central HR is working to identify those individuals and will make a note on the Form I-9.
5. What if an employee refuses to meet for a physical document inspection at the end of the flexibilities? Can we add a memo to the file indicating that we remotely examined the employee's documents but were not able to complete the physical inspection?
  - a. Per DHS, an employer cannot retain an employee who the employer knows is not authorized to work in the United States or that does not fulfill Form I-9 documentary requirements. This includes presenting documentation for in-person physical examination. Employers are required to complete Form I-9 for all new hires, including the requirement to physically examine identity and work authorization documents. If you find yourself in this situation, please contact HR operations for guidance.
  - b. Source: <https://www.uscis.gov/i-9-central/form-i-9-related-news/questions-and-answers-related-to-covid-19>



6. What if the document was valid during remote inspection and is now expired during physical inspection?
  - a. As long as the employee's document was unexpired at the time of remote inspection, the employer should not request a new document and can proceed with the physical inspection consistent with DHS guidance.
7. What if the employee presents a different but still acceptable document at the time of physical inspection?
  - a. If the employee presents acceptable documents for in-person inspection that are different from the ones they presented for remote inspection, then the employer can provide the document title, document number, issuing authority, and expiration date (if any) of the new document in the Additional Information field and notate that the employee presented this document at physical inspection.
8. What about E-verify?
  - a. Employers must physically examine documents for those employees who were hired on or after March 20, 2020, and for whom the employer has, to date, only conducted a remote inspection consistent with the flexibilities. Employers should not create a new E-Verify case for this employee, nor should they update the existing E-Verify case, in connection with this physical inspection.
9. What steps must be taken in HireRight for physical reinspection?
  - a. The note "Document physically examined on mm/dd/yyyy by name" should be added to the Additional Information box in Section 2 of the Form I-9. Do not delete previous comments. [An example](#) has been provided by DHS.
10. We have students and faculty who are not available over the summer. What should we do?
  - a. Physically inspect the documents in August before the deadline., OR
  - b. Individuals who will not be working in the summer but will be returning to work after the August 30<sup>th</sup> deadline, should be either terminated or hold status in HCM (e.g. Leave without pay, Short Work Break). When they resume work, the I-9 should be updated with the rehire date and physical inspection of the documents should be completed within three business days of the rehire date.