

LABOR & EMPLOYMENT LAW

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ICE Confirms Deadline For Correcting Paperwork Errors

Immigration and Customs Enforcement (ICE) recently confirmed that employers should be provided 10 days to correct technical or procedural paperwork violations following a government I-9 audit.

ICE categorizes I-9 errors into two groups: substantive verification failures and technical or procedural verification failures. Substantive errors arise when, for example, Section 2 of the form is not signed or when an employee fails to indicate his or her citizenship status. These errors are not subject to the 10-day correction period and an employer found in violation could face significant penalties.

Technical or procedural violations, on the other hand, include situations where, for example, an employee fails to enter his or her address, or birth date in Section 1 of the form. These mistakes – often referred to as “paperwork errors” – are considered less troublesome and are subject to the 10-day correction period provided the employer has made a good faith effort to comply with the form’s requirements.

Employers’ compliance with the Form I-9 is under increased scrutiny. Indeed, ICE has issued more I-9 audit notices this year than ever.

Although only one page, compliance with form I-9 can be deceptively difficult. But meticulous compliance with the form’s requirements is essential to avoiding significant penalties down the road. To that end, employers should train the employees who administer the I-9 process. A good starting point includes requiring those employees to be familiar with the Handbook for Employers: Instructions for Completing Form I-9. The Handbook provides step-by-step instructions for completing the Form I-9 and can be found at the U.S. Citizenship and Immigration Services’

Web site: <http://www.uscis.gov/files/nativedocuments/m-274.pdf>. Prudent employers will also audit their existing I-9s to make sure they identify and address mistakes.

To obtain more information on the Form I-9 or immigration compliance, please contact the Barnes & Thornburg Labor and Employment attorney with whom you work, or a leader of the firm's Labor and Employment Law Department in the following offices: Kenneth J. Yerkes, Chair (317) 231-7513; Steven J. Whitehead, Atlanta (404) 264-4045; Norma W. Zeitler, Chicago (312) 214-8312; William A. Nolan, Columbus (614) 628-1401; Eric H.J. Stahlhut, Elkhart (574) 296-2524; Mark S. Kittaka, Fort Wayne (260) 425-4616; Michael A. Snapper, Grand Rapids (616) 742-3947; Peter A. Morse, Indianapolis (317) 231-7794; Kevin R. Coan, Minneapolis (612) 342-0324; Janilyn Brouwer Daub, South Bend (574) 237-1139; and Teresa L. Jakubowski, Washington, D.C. (202) 371-6366.

For employment-based immigration questions, please contact Mariana Richmond, Chair of Barnes & Thornburg's Immigration Practice Group at (317) 231-7476.

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