

Question:

I've just learned that many of our current employees do not have completed I-9 forms with us. What should I do?

Answer from Monica, SPHR, SHRM-CP:



I recommend you inform affected employees that this information is missing, ask them to bring documents to establish their identity and work authorization the next time they work, and complete the Form I-9 with them. The U.S. Citizenship and Immigration Services (USCIS) requires that an I-9 is completed as soon as possible when it is determined one isn't on file.

A few things to keep in mind:

- I recommend providing the Lists of Acceptable documents included with the I-9 instructions to employees in preparation for completion of the I-9. Please note, however, that an employer may not specify which document(s) an employee may provide for completion of the form.
- If an employee fails to bring documentation within the required timeframe, you may terminate employment based on inability to meet the employment verification requirements. You may choose to rehire them later if they present the proper document(s) (and complete a new I-9), but you are not required to hold their position.
- Don't backdate the form. The employee must enter the date they complete the I-9 on their signature line in Section 1, and you must enter the date you reviewed the required documents on your signature line in Section 2. The form must, however, have the employee's original start date.
- We also recommend including a memo with the I-9 in your files explaining why it wasn't completed within three days following the employee's hire date. I recommend stating that as a result of conducting an internal audit, you determined that the I-9 was missing and completed one immediately, which is why the date of completion is not within the required three days from the date employment began.