

Employment Law Update: ICE Announces Extension of Virtual ID Verification Program through December 31, 2021

Immigration and Customs Enforcement Extends the Form I-9 Requirement Flexibility, Effective September 1, 2021

09/01/21

On August 30, 2021, we issued “Employment Law Update: Virtual ID Verification Triggered by COVID-19 Expires on August 31, 2021,” concerning the imminent expiration of ICE’s virtual ID verification program. However, on August 31, ICE announced that effective September 1, 2021 the program has been extended through December 31, 2021, due to ongoing COVID-19 precautions.

Since March 20, 2020, in response to the COVID-19 health emergency, ICE has allowed employers with remote operations to defer the physical inspection of drivers’ licenses, Social Security cards, and other documents related to the completion of an I-9 form. At this time, ICE will continue to permit employers to examine the documents remotely, via video or email.

ICE will continue to allow employees who exclusively work remotely, due to COVID-19 related precautions, to be temporarily exempt from the physical inspection of identification documents requirement associated with the completion and submission of an I-9 form until the employee undertakes “non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibility related to such a requirement is terminated, whichever is earlier.”

The [August 31, 2021 memo issued by ICE](#) states, “this extension will continue to apply the guidance previously issued for employees hired on or after April 1, 2021, and work exclusively in a remote setting due to COVID-19-related precautions. If employees are physically present at the workplace, no exceptions are being granted at this time for in-person verification of identity and employment eligibility documentation for the I-9 employment form.”

The extension to the virtual ID verification program is now scheduled to terminate on December 31, 2021.

If you are an employer with questions regarding employment verification, please contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law](#) Team.

Resource:

[\[1\] ICE announces extension to new employee guidance to I-9 compliance flexibility](#)

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