

Document Abuse 101



WHAT IS DOCUMENT ABUSE?

Document abuse may occur in the workplace against newly hired or existing employees. For newly hired employees, it can happen when an employer does not accept employment authorization documents that are legally acceptable under the "I-9 form" (**see back**). The employer instead asks the worker for specific documents or requests more or different documents than are required by the I-9 form.

Current employees can experience document abuse when an employer demands extra documents to verify employment eligibility even after the employee previously successfully completed the I-9 form process. Only under limited and specific circumstances can an employer ask an employee for further verification.

SOME EXAMPLES OF DOCUMENT ABUSE INCLUDE, BUT ARE NOT LIMITED TO:

- An employer demands to see a worker's U.S. passport
- An employer requires some U.S. citizens to provide certificates of naturalization.
- An employer asks for an Employment Authorization Document (EAD) although the worker has already shown a state identification card and an unrestricted Social Security card.
- An employer refuses to accept the EAD because it has a future expiration date.

NEW STATE PROTECTIONS

SB 1001, sponsored by MALDEF & the CA Immigrant Policy Center, was signed into law in 2016. The bill will protect workers by prohibiting employers from:

- Requesting more or different documents than are required under federal law;
- Refusing to honor documents that reasonably appear to be genuine;
- Refusing to honor documents or work authorization based upon the immigration status that accompanies the work authorization; and
- Attempting to reinvestigate or re-verify a current employee's work authorization in a way not required by federal law.

WHAT'S NEXT?

Beginning on January 1, 2017 workers will be able to file claims through the CA Division of Labor Standards Enforcement (DLSE).

We need your help to get the word out!

- ✓ Does your organization want more information regarding these protections?
- ✓ Do you have questions about document abuse or how to file a claim through DLSE?

If so, please contact Sasha Feldstein at

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FEDERAL & STATE PROTECTIONS FOR WORKERS

Federal Law prohibits Document Abuse under 8 U.S.C § 1324 (a) (6).

These protections are enforced by the U.S. Department of Justice's Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC). Claims may be filed within 180 days of the violation.

California Law:

AB 263 signed into law in 2013, prohibits document abuse, when done in retaliation against current employees.

SB 1001 signed into law on September 2016, will prohibit Document Abuse under any context, including at the point of hire. These protections will go into effect on January 1, 2017.

LISTS OF ACCEPTABLE DOCUMENTS

All documents must be UNEXPIRED

Employees may present one selection from List A
or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
<ol style="list-style-type: none"> 1. U.S. Passport or U.S. Passport Card 2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551) 3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa 4. Employment Authorization Document that contains a photograph (Form I-766) 5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: <ol style="list-style-type: none"> a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: <ol style="list-style-type: none"> (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form. 6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI 	OR	<ol style="list-style-type: none"> 1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, 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, gender, 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 <li style="text-align: center;">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 	AND	<ol style="list-style-type: none"> 1. A Social Security Account Number card, unless the card includes one of the following restrictions: <ol style="list-style-type: none"> (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION 2. Certification of Birth Abroad issued by the Department of State (Form FS-545) 3. Certification of Report of Birth issued by the Department of State (Form DS-1350) 4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal 5. Native American tribal document 6. U.S. Citizen ID Card (Form I-197) 7. Identification Card for Use of Resident Citizen in the United States (Form I-179) 8. Employment authorization document issued by the Department of Homeland Security

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274).

Refer to Section 2 of the instructions, titled "Employer or Authorized Representative Review and Verification," for more information about acceptable receipts.