



Headline Summary

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Yet Another New I-9 Form

The I-9 form has changed again. Employers must use the latest version (with a revised date of 7/17/17) for new hires and reverifications starting on or before September 18, 2017.

This version reflects the following changes:

- A section of the document has been renamed.
- Instructions now state that new hires must complete Section 1 no later than "the first day of employment" rather than "the end of the first day of employment."
- The list of acceptable documents has changed.
- All birth certificates issued by the Department of State have been combined into selection C#2 in List C, and most of the documents in List C have been renumbered.

For more information, see the revised *Handbook for Employers: Guidance for Completing Form I-9* at <http://bit.ly/I-9Handbook4Employers>.

! To avoid being fined for non-compliance, be sure you are using the new form.

Pot Legalization & Anti-Drug Policies

Last year California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA), making the recreational use of cannabis legal for adults over the age of 21 throughout the state. On January 1, 2018, the state will begin issuing retail licenses to pot dispensaries.

The question is, how will this impact your workplace? What are your options if and when employees show up for work stoned, or use cannabis during the work day? Can you still legally enforce your company's anti-cannabis policies?

The good news is that the law favors employers' rights to enforce anti-marijuana policies. In fact, the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) that was signed into law in June 2017 specifically states that the legalization of cannabis **does not**:

- Restrict employers' rights to maintain a drug-free workspace;
- Require employers to permit or accommodate cannabis use in the workplace; or
- Affect employers' ability to prohibit cannabis use by employees and prospective employees.

! Review your Employee Handbook to ensure that your cannabis-related policies are clear, possibly even referencing both the AUMA and MAUCRSA laws. Also, be sure that any anti-cannabis policies that you have put into place include an explanation as to why the restriction promotes the legitimate business interests of your firm.

Cal/OSHA's Fines Have Nearly Doubled

For the first time in over two decades, Cal/OSHA has increased its maximum fines, bringing California in line with the Federal standard. As part of this change, fines will now be automatically increased each year.

The new maximum fines are:

Category	New Maximum Fine Per Violation
Violations that are not of a serious nature	\$12,471
Posting or recordkeeping violations	\$12,471
Repeat violations	\$124,709 (with a new minimum fine of \$8,908)

In addition, any employer who engages in repeat violations can no longer receive an adjustment of the fine based on the good faith or the history of previous violations, a practice that was previously commonplace.

! Be sure that you are in compliance with Cal/OSHA mandates, as violations can be extremely costly.

New EEO-1 Wage Reporting On Hold

The Equal Employment Opportunity Commission (EEOC) has announced that the new EEO-1 wage reporting requirements that were set to go into effect for the 2017 EEO-1 Reports are now on hold.

Under these new rules, private companies with 100 or more employees as well as covered federal contractors would have been required to report data on employee compensation and hours worked. As of August 29, 2017, these requirements have been indefinitely stayed. However, it is only the new requirements that are affected; the existing reporting requirements still stand.

Related to this reprieve, the Office of Management and Budget (OMB) is initiating a review to look at the effectiveness of evaluating this pay and hours worked data versus the burden placed on employers to collect and report this data.

! If your company has more than 100 employees, or if you are a federal contractor covered by the existing law, you must submit the long-standing EEO-1 form by March 31, 2018 with your company's 2017 data on race, ethnicity and gender by occupational category.

New Domestic Leave Notice

AB 2337, which was signed into law last year, requires employers to provide employees with a notice regarding the availability of domestic violence victim leave. As of July 1, 2017, this notice must be provided to all new hires and other employees upon request.

The California Labor Commissioner has now published the sample notice in both English and Spanish, at <http://bit.ly/DomesticLeaveEnglish> and <http://bit.ly/DomesticLeaveSpanish>.

! Add this notice to the packet of documents you provide to new hires, and then review your Employee Handbook to ensure that it is in compliance with these employee rights.

Prevent & Correct Workplace Harassment

In a recent in-depth study of over 3,000 U.S. workers, 20% of respondents reported facing a hostile or threatening environment at work—conditions which can include sexual harassment and/or bullying. The message for employers, the lead author concluded, is that working conditions really do matter.

Ensuring that you provide good working conditions is always a good idea. This will help you attract and retain employees and stay competitive in your field. Of course, having a hostile or threatening environment at your workplace is also against the law.

California's Fair Employment and Housing Act (FEHA) explicitly prohibits discrimination, harassment and retaliation. It also requires employers to take reasonable steps to prevent and correct such conduct. In 2016, the state determined the required elements of a prevention and correction program. In May 2017, the state issued a *Workplace Harassment Guide* to clarify employers' obligations under these regulations.

California employers' workplace anti-harassment programs must include:

- A clear and easy to understand written policy
- Regular distribution and discussion of this written policy
- A minimum of two hours of training for supervisors and managers
- Specialized training for those who will handle complaints
- Policies and procedures for prompt, thorough and fair complaint investigations

You can download the *Guide* at <http://bit.ly/WorkplaceHarassmentGuide>. More than half of this *Guide* focuses on acceptable workplace investigation procedures, including specific guidelines for making credibility determinations (such as in "he said / she said" situations).

! Download the *Guide*, and ensure that you are in compliance with the law. We've all seen the headlines about plaintiffs receiving substantial rewards in "hostile workplace" lawsuits. Don't let this happen to you!

CalRecycle's New Packaging Guidelines

If you produce packaging, you'll want to follow CalRecycle's efforts to formulate guidelines for mandatory packaging waste management.

CalRecycle is the California state agency responsible for regulatory programs related to solid waste and recycling. One of their stated goals is that by 2020 at least 75% of solid waste generated will be source reduced, recycled or composted. To make this happen, they're working on some potential mandatory measures to require manufacturers and packaging suppliers to reduce packaging waste. Whatever guidelines they enact are then likely to be used as a framework for new legislation.

Possibilities currently on the table include:

- Source reduction plans and programs
- Increased producer responsibility for the recovery of packaging waste
- Requirements for minimum recycled content in packaging
- Bans on recyclable packaging at landfills
- Advanced recycling fees on packaging materials

! If you wish to follow this issue closely, sign up for CalRecycle's packaging listserv at <http://bit.ly/CalRecycleListserv>. You can also attend the next public meeting on the issue, on October 10th in Sacramento. See <http://bit.ly/CalRecycleMeeting10-10> for more information.

