

PUBLICATION

Immigration Update: Travel History with the Click of a Button; A Quick-Reference Guide for I-9; Hiring Decisions Impacting F-1 Students

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New CBP Webpage allows Non-immigrants Access to their Arrival/Departure History

Customs and Border Protection (CBP) announced a new webpage on May 1 that gives travelers access to the date and port of entry of all arrivals and departures for the last five years. Travel history includes entries made with a visa and those made under the Visa Waiver Program using the Electronic System for Travel Authorization (ESTA). Interested travelers can access this data by going to the [same webpage](#) where they retrieve their I-94 electronic arrival/departure record, and after entering their passport and biographic data, clicking on "Get Travel History." A detailed list of dated arrival and departure information is generated that includes the port of entry/exit for each travel record.

Countless individuals frequently file Freedom of Information Act (FOIA) requests for their travel histories each day. These individuals can now, once they have confirmed the availability of their information on the site, easily cancel their pending FOIA requests by entering their FOIA Number and clicking on the "Request FOIA Cancellation" button located right above the travel history.

New I-9 Employee Information Sheet

United States Citizenship and Immigration Services (USCIS) recently published an Employee Information Sheet, Form M-1116, for use in conjunction with completing a Form I-9. USCIS published this Form M-1116 in January 28, 2014, (available in multiple languages) and added it to the site without much announcement. Although it is not a substitute for the complete Form I-9 and instructions (at <http://www.uscis.gov/i-9> with Complete Employer instructions in Form M-274), it may serve as a useful training document/quick reference guide for Human Resource employees who frequently interact with workers during the I-9 process or as a helpful roadmap for a new hire.

The one-page M-1116 includes a Q &A regarding twelve of the most critical aspects of I-9 completion:

1. What is the purpose of the Form I-9?
2. Who keeps Form I-9?
3. Must I fill out everything in Section 1?
4. Should I complete Section 2 or Section 3?
5. Is Form I-9 available in other languages?
6. May someone who understands English help me fill out Form I-9?
7. Which documents do I need to show my employer?
8. Do I need to show my employer one or two documents?
9. What will happen if I do not complete Section 1 and/or present acceptable documents?
10. Can I get in trouble if I lie on the form?
11. Who can I call if I have questions, or if I think my employer is treating me unfairly based on my national origin or citizenship status?
12. How can I learn more about the Form I-9 and my rights and responsibilities as an employee?

The M-1116 Employee Information Sheet can be accessed [here](#).

On its official blog, The Beacon, USCIS has added helpful links to its tutorial videos on completing each section of the I-9 form, and it also provides information on the use of E-verify. To access the April 15 blog posting, go to: <http://blog.uscis.gov/2014/04/whats-form-i-9-e-verify-who-new-videos.html>

OSC Guidance on Employer's Decision Not to Hire a Student

On April 30, 2014, the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) issued a Technical Assistance Letter regarding whether an employer could decline to extend an offer of employment to an F-1 student applicant due to limited time left on visa/work authorization status. Although the OSC cautioned against assumptions based on an applicant's current work authorization status because employers may not know whether an individual is transitioning to another extended immigration status, it recognized that F-1 visa holders are not among the categories of individuals protected from citizenship status discrimination under 8 U.S.C. § 1324b(a)(3) (U.S. citizens, lawful permanent residents not yet eligible to apply or who have applied for naturalization, asylees and refugees). The OSC further reminds of its position that "an employer that asks whether an applicant would require sponsorship now or in the future is unlikely to implicate the anti-discrimination provision's prohibition against citizenship status discrimination" and that "communicating to an unsuccessful applicant that the employer's willingness to sponsor the applicant was the basis for the non-hire decision is not likely to lead to a determination by OSC that an employer has committed unlawful citizenship status discrimination."

As with previous guidance on the topic of pre-employment inquiries regarding immigration status, OSC continues to recommend that the employer limit its inquiries to: "Will you now or in the future require sponsorship for employment visa status (e.g., H-1B visa status)?" If, as was the case in the F-1 student applicant above, the answer is yes, then the employer is free to decide whether it is ultimately unwilling to sponsor the applicant.

To review the full April 30, 2014, letter and other letters with useful anti-discrimination guidance, go to: <http://www.justice.gov/crt/about/osc/htm/techletters.php>.