

# Form I-9 Requirement Flexibility Ending July 31, 2023

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On May 4, 2023, the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) announced that the Form I-9 COVID-19 flexibility policy will end on July 31, 2023.

As explained in our previous [alert](#), in March 2020, DHS and ICE announced the COVID-19 I-9 flexibility policy. This policy has allowed employers whose workforce is working remotely to defer the physical presence requirements associated with the Employment Eligibility Verification (Form I-9) and section 274A of the Immigration and Nationality Act. Instead, employers with a remote workforce have been allowed to inspect the employee's "Section 2" I-9 documents remotely, using video, email, or similar electronic means. DHS and ICE have extended this policy multiple times, [most recently](#) until July 31, 2023.

With this COVID-19 flexibility policy coming to an end, DHS is now encouraging employers who have been using those temporary flexibilities to plan ahead to ensure that all required physical inspection of identity and employment eligibility documents is completed by August 30, 2023. This applies to employees hired on or after March 20, 2020 who have received a virtual or remote examination under the flexibilities policy.

USCIS has provided [guidance](#) on how to annotate a previously completed I-9 form to note a subsequent physical inspection of identity and employment eligibility documents.

Additionally, as a response to the COVID-19 pandemic and its impact on remote work, DHS issued a [proposed rule](#) that would allow for alternative procedures for the examination of identity and employment eligibility documents. DHS is currently reviewing public comments and plans to issue a final rule later this year.

If you have any questions regarding these changes, please contact your Mintz Immigration attorney.

## Authors



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