# Office of Special Counsel for Immigration-Related Unfair Employment Practices

U.S. Department of Justice — Civil Rights Division

# "Refugees and Asylees Have the Right to Work"

## Employers Should Know:

1. ***Refugee and asylum status may be granted to people who have been persecuted or fear they may be persecuted on account of race, religion, nationality, membership in a particular social group or political opinion.***

   Refugee status is granted to persons who meet all the eligibility requirements for refugee resettlement and are located outside the U.S. Asylum status is granted to persons who meet the definition of refugee in the Immigration and Nationality Act (INA) and are already in the U.S. For more information about refugee status and asylum, you may visit the website for U.S. Citizenship and Immigration Services (USCIS), *www.uscis.gov*.

2. ***Refugees and asylees are authorized to work because of their status.***
   - Refugees and asylees are authorized to work indefinitely.
   - They are qualified to receive Social Security cards without employment restrictions.

   They do not need to indicate an expiration date in Section 1 of the I-9 Form. According to USCIS instructions, they may write "N/A" or leave the expiration date blank.

3. ***Refugees and asylees may possess a variety of documents from the I-9 Form Lists of Acceptable Documents and from the USCIS Employer Handbook that prove employment authorization.***

   A refugee or asylee may have an unrestricted Social Security card, an EAD (Employment Authorization
   - Document, Form I-766), or a Form I-94 with a refugee admission or asylum approval stamp.

   There are special guidelines for the Form I-94. According to the Refugee Receipt Rule, a Form I-94 presented by a *refugee* serves as a receipt for a List A document. After 90 days, the worker must show either
   - an EAD or a combination of an unrestricted Social Security card and a List B identity document.

   The Refugee Receipt Rule does not apply to *asylees*. A Form I-94 indicating asylum status is considered a
   - List C document and should not have an expiration date.
   - Immigration Judge decisions are not acceptable List C documents.

   *Applicants* for asylum status may apply for an EAD if their application has been pending for 150 days or more. If their asylum application is still pending 180 days from the date of filing, the application for employment authorization will be adjudicated.

4. ***Like all employees, refugees and asylees must be allowed to choose which documents to present for I-9 purposes.***

   Employers may not require any employee to present documents issued by DHS if he or she presents an unrestricted Social Security card and a List B identity document.

5. ***Like all employees, refugees and asylees must be allowed to present <u>any</u> List A or List C document for reverification purposes.***

   If a refugee or asylee presents an EAD for initial verification, then upon reverification he or she may present a current EAD, but he or she is not required to do so. Rather, he or she must be allowed to present any document from List A or List C, including an unrestricted Social Security card. A List B document is not needed for reverification.

6. ***Refugees and asylees may experience a delay in receiving a Social Security Number (SSN).***

   Although an employer will eventually need to record an SSN for *wage reporting purposes*, once an employee has satisfied the I-9 documentation requirements, the employer must allow him or her to work
   - regardless of whether he or she has been issued an SSN.

   Employers using E-Verify should delay running an E-Verify query until the worker is issued an SSN.

**For more information, call the OSC Employer Hotline 1-800-255-8155,**
***TDD for hearing impaired: 1-800-237-2515***
**or visit the OSC website at: <u>www.justice.gov/crt/osc</u>**

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## Refugees and Asylees Should Know:

1. ***To prove you are authorized to work, you may choose which documents to present from the Lists of Acceptable Documents on the back of the I-9 Form.***
   - You may choose to present either one document from List A or a combination of one document from List B and one document from List C.
   - You may choose to present an EAD (Employment Authorization Document, Form I-766), which is a List A document.
   - You may also show a combination of a List B document, such as a state I.D. or driver license, along with your unrestricted Social Security card.
     *(Note: You do not need to show a DHS-issued document in order to prove you are authorized to work if you have an unrestricted Social Security card and a List B identity document.)*
   - There are special guidelines for the Form I-94. If you are a *refugee*, the Refugee Receipt Rule states your Form I-94 is a *receipt* for I-9 purposes; you may present your Form I-94 as proof of work authorization, but after 90 days you must present either an EAD or a combination of a List B document and an unrestricted Social Security card.
   - If you are an *asylee*, the Refugee Receipt rule does not apply and you may present your Form I-94 as a List C document. A Form I-94 indicating asylum status does not expire or need to be reverified.
2. ***Refugees and asylees are authorized to work because of their status.***
   - The instructions for the I-9 Form state you may either leave the expiration date blank or write "N/A" (not applicable) in Section 1 of the I-9 Form.
3. ***If you present an unrestricted Social Security card when you begin your employment, your employer should not reverify your employment eligibility.***
   - However, if you present an EAD when you begin work, then your employer must reverify your employment eligibility when your EAD expires.
   - At reverification, you still have the right to choose which documents to present; this may be either one from List A or one from List C, including an unrestricted Social Security card. (Note: you do not need to show a List B document for reverification.)
4. ***You may begin working even if there is a delay in receiving your Social Security number (SSN).***
   - Providing your SSN for Section 1 of the I-9 Form is optional unless the employer is enrolled in E-Verify, in which case you must supply your SSN to your employer as soon as you receive it.
   - Even though you must supply your SSN to an employer enrolled in E-Verify, you may still choose to present other documents listed on the back of the I-9 Form to prove you are work authorized for Section 2 of the I-9 Form.
   - An employer may not refuse to hire you or prevent you from starting work because you do not possess an SSN.
   - If your employer is enrolled in E-Verify it must wait to run your information through E-Verify until you receive and provide your SSN to your employer.

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**or visit the OSC website at: www.justice.gov/crt/osc**