

Immigration Blog

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California Passes Law Expanding I-9 Controls

By [Amy L. Peck](#) on November 2, 2016

An amendment to California law expands state prohibitions against “unfair immigration-related practices” related to the hiring of foreign nationals. SB-1001 goes into effective on January 1, 2017.

According to the preamble of the bill, it is “unlawful for an employer to request more or different documents than are required under federal law, to refuse to honor documents tendered that on their face reasonably appear to be genuine, to refuse to honor documents or work authorization based upon the specific status or term of status that accompanies the authorization to work, or to reinvestigate or reverify an incumbent employee’s authorization to work, as specified.” Moreover, the statute gives aggrieved employees and applicants for employment a cause of action with the California Labor Commission’s Office.

SB-1001 expands existing prohibitions against unfair immigration-related practices under California law. First, the new law protects *applicants for employment* in addition to employees, thereby expanding punishable hiring practices beyond retaliatory acts against employees for attempting to exercise legal rights. Now, document abuse at the point of application for hire is included in punishable activity.

Second, SB-1001 prohibits employers from refusing to honor documents based on specific status or term of status and from attempting to reinvestigate or reverify the work status of a current employee unless by request of the federal government.

Finally, it expands enforcement by creating a new state remedy. Under the new law, aggrieved individuals can file a complaint with the California Labor Commission's Office, which can penalize employers up to \$10,000 per violation. By creating a state remedy, SB-1001 expands California's previous system of enforcement through the U.S. Department of Justice (OSC) and federal appeals process, which [the California Senate called "an overly cumbersome process."](#)

California employers should be alert of the new restrictions in conducting hiring procedures, including I-9 and E-Verify, and understand that document abuse is no longer limited to instances of "retaliation" against incumbent employees.

The California Assembly Committee on Labor Employment offered [the following examples](#) of employer document abuse:

- Demanding to see a worker's U.S. passport;
- Asking for an Employment Authorization Document when the worker has already shown a state ID and "unrestricted" Social Security card;
- Refusing to accept an EAD because it contains a future expiration date;
- Asking to reverify work documents of an employee who presented a Green Card at the point of hire; and
- Demanding to see an employee's renewed driver's license because the previous license used for the I-9 expired.

Hence, employers should cautiously avoid making document requests or other activities considered “unfair immigration-related practices” under the statute when dealing with new applicants as well as current employees.

Jackson Lewis is available to answer inquiries about this and other developments.

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